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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a
separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

(रक्षा मंत्रालय को छोड़ कर) भारत सरकार के मंत्रालयों द्वारा जारी किए गये सांघीयक आदेश और अधिसूचनाएँ
Statutory Orders and Notifications issued by the Ministries of the Government of India (other than the
Ministry of Defence)

गृह मंत्रालय

नई दिल्ली, 26 जुलाई 1985

का.अ. 3741—अवैध आप्रवास (न्यायाधिकरणों द्वारा निर्धारण) अधि-
यम 1983 के धारा 15 का उप धारा (1) के अधिन प्रदत्त शक्तियों का
उपयोग करते हुए, केन्द्रिय सरकार असम राज्य में न्यायाधिकरणों द्वारा किये
आदेशों के खिलाफ धारा 14 के अधीन दायर क गई अपलों
पर निर्णय करने के लिये एतद्वारा 1 अप्रैल, 1985 से एक अपील
न्यायाधिकरण, जिसे अवैध आप्रवास (निर्धारण) अपलीट न्यायाधिकरण
का नाम दिया जायेगा, स्थापित करता है। इस अपलीट न्यायाधिकरण में तीन
सदस्य होंगे। इन अपलीट न्यायाधिकरण के बैठने का प्रमुख स्थान गौहाटी
होगा।

[सं. 11012/92/85-एन. ई. 4]

एस एस शर्मा, विशेष कार्य अधिकारी

MINISTRY OF HOME AFFAIRS

New Delhi, the 26th July, 1985

S.O. 3741.—In exercise of the powers conferred by sub-
section (1) of Section 15 of the Illegal Migrants (Determi-
nation by Tribunals) Act, 1983 the Central Government
hereby establishes, with effect from 1st April, 1985, an
Appellate Tribunal to be known as the Illegal Migrants
Determination Appellate Tribunal for deciding appeals pre-
567 GI/85 1

(4297)

ferred under Section 14 against orders made by Tribunals in
the State of Assam. The Tribunal shall consist of three mem-
bers and the principal place of sitting of the Appellate Tri-
bunal shall be Gauhati.

[No. 11012/92/85-NE-IV]

S. S. SHARMA, Officer on Special Duty.

(राजभाषा विभाग)

नई दिल्ली, 17 जुलाई, 1985

का.अ. 3742.—केन्द्रीय सरकार राजभाषा (संघ के शासकीय प्रयोजनों
के लिए प्रयोग) विनियम, 1976 के नियम 10 के उप नियम (4) के
अनुसरण में निम्नलिखित विभागों को उनके कर्मचारियों द्वारा से दिवसीय
कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करता है:—

1. उप राष्ट्रपति सचिवालय
2. खेल विभाग
3. अन्तरिक्ष विभाग

[संख्या 12022/1/78-रा.भा. (ख-2)]

सो.एल. भाषा, अवर सचिव

(Department of Official Languages)

New Delhi, the 17th July, 1985

S.O. 3742.—In pursuance of sub-rule (4) of 10 of the
Official Language (use of Official Purposes of the Union)

Rules 1976, the Central Government hereby notifies the following Departments, the Staff whereof have acquired a working knowledge of Hindi :—

1. Vice-President Secretariat.
2. Department of Sports.
3. Department of Space.

[No. 12022/1/78-OL(B2)]
C. L. BHATTIA, Under Secy.

कर्मिक और प्रशिक्षण, सामाजिक पुनर्वास

और लोक शिवालय तथा पेंशन संभालन

(कर्मिक और प्रशिक्षण विभाग)

आदेश

नई दिल्ली, 26 जुलाई, 1985

कां.आ. 3743.—केन्द्रीय सरकार, दिल्ली विशेष पुलिस स्थापन अधिनियम, 1946 (1946 का 25) का धारा 6 के तहत पठित, धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उत्तर प्रदेश सरकार की सहमति से भारतीय दण्ड संहिता की धारा 302 के अधीन पुलिस थाना कोतवाली ब्रिन्दावन, जिला मथुरा (उत्तर प्रदेश) में रजिस्ट्री-कृत प्रथम इतिहास रिपोर्ट मामले अपराध संख्या 253/82 तारीख 19-11-82 में रिपोर्ट की गई जगदीश गौतम द्वारा की गयी भारतीय दण्ड संहिता, 1860 (1860 का 45) की धारा 302 के अधीन बर्तमान अपराधों और उक्त अपराधों और ऐसे ही संबंधित मामलों के अनुक्रम में किए गए किसी अन्य अपराधों के संबंध में या उनके संबंध प्रत्यक्ष, दुरूपेणों और पड़ोसियों के अन्वेषण के लिए, दिल्ली विशेष पुलिस स्थापन के नज़रों को शक्तियों और अधिकारिता का विस्तारण सम्पूर्ण उत्तर प्रदेश राज्य पर करती है।

[संख्या 228/14/85-ए.वी.डी.-II]

MINISTRY OF PERSONNEL & TRAINING, ADMN.
REFORMS AND PUBLIC GRIEVANCES & PENSION
(Department of Personnel & Training)

ORDER

New Delhi, the 26th July, 1985

S.O. 3743.—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (25 of 1946), the Central Government with the consent of the Government of Uttar Pradesh hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Uttar Pradesh for the investigation of offences punishable under section 302 of the Indian Penal Code, 1860 (45 of 1860) and attempts, abetments and conspiracies in relation to or in connection with the said offences and other offences committed in the course of the same transaction in regard to the murder of Jagdish Gautam reported vide FIR Case Crime No. 253/82 dated 19-11-1982 under section 302 IPC registered at P.S. Kotwali Vrindawan Distt. Mathura (Uttar Pradesh).

[No. 228/14/85-AVD.II]

नई दिल्ली, 29 जुलाई, 1985

का. आ. 3744. केन्द्रीय सरकार, दिल्ली विशेष पुलिस स्थापन अधिनियम, 1946 (1946 का 25) का धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, निम्नलिखित अपराध को उस अपराध के रूप में विनिर्दिष्ट करती है जिसका अन्वेषण दिल्ली विशेष पुलिस स्थापन द्वारा जायेगा, अर्थात् :—

(क) भारतीय दण्ड संहिता 1860 (1860 का 45) की धारा 498क के अधीन दंडनीय अपराध।

(ख) ऊपर उल्लिखित अपराध और, उन्हीं तथ्यों से पैदा उसी संव्यवहार के अनुक्रम में किये गये, किसी अन्य अपराध के संबंध में या उसके संबंधित प्रत्यक्ष, दुरूपेण और पड़ोसियों।

[सं. 228/17/85-ए.वी.डी.-II]

एम. एस. प्रसाद, अधीक्षक सचिव

New Delhi, the 29th July, 1985

S.O. 3744.—In exercise of the powers conferred by section 3 of the Delhi Special Public Establishment Act, 1946 (25 of 1946) the Central Government hereby specifies the following offences as offences which are to be investigated by the Delhi Special Police Establishment, namely:—

- (a) Offence punishable under section 498A of the Indian Penal Code, 1860 (45 of 1860).
- (b) Attempts, abetments and conspiracies in relation to, or in connection with, the offence mentioned above, and any other offence committed in the course of the same transaction arising out of the same facts.

[No. 228/17/85-AVD.II]

M. S. PRASAD, Under Secy.

का. आ. 3745.—राष्ट्रपति, संविधान के अनुच्छेद 309 के परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, सिविल सेवा विनियमों का और संशोधन करने के लिए निम्नलिखित विनियम बनाते हैं, अर्थात्:—

1. (i) इन विनियमों का संक्षिप्त नाम सिविल सेवा (संशोधन) विनियम, 1985 है।
- (ii) ये राजपत्र में प्रकाशन की तारीख को प्रवृत्त होंगे।

2. सिविल सेवा विनियमों में, अनुच्छेद 89 के पश्चात् निम्नलिखित अनुच्छेद अंतःस्थापित किया जाएगा, अर्थात्:—

“89 क किसी सरकारी सेवक को, उसके लिखित अनुरोध पर, उसक पसन्द के स्थान पर तैनाती को सुनिश्चित करने के दृष्टि से, किसी पद से किसी अन्य निम्नतर पद पर, स्थानांतरित किया जा सकेगा।”

[संख्या 18016/1/85-स्था (एस)]

एस. सुभद्रा, अधीक्षक सचिव

S.O. 3745.—In exercise of the powers conferred by the proviso to article 309 of the Constitution, the President hereby makes the following regulations further to amend the Civil Service Regulations, namely :—

1. (1) These regulations may be called the Civil Service (Amendment) Regulations, 1985.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Civil Service Regulations, after article 89, the following article shall be inserted, namely :—

“39-A—A Government servant may be transferred from one post to another lower post with a view to secure posting to the station of his choice, on his written request.

[No. 18016/1/85-Estt.(L)]

SMT. S. SUBHADRA, Under Secy.

वित्त मंत्रालय

(राजस्व विभाग)

नई दिल्ली, 7 जून, 1985

आयकर

का.आ. 3746:--आयकर अधिनियम, 1961 (1961 का 43) की धारा 2 के खण्ड (44) के उप खंड (iii) के अनुसरण में और भारत सरकार के राजस्व विभाग की दिनांक 28-6-83 की अधिसूचना संख्या 5293/फा.सं. 398/22/83-आ.कं. (iii) का अधिलेखन करते हुए, केन्द्रीय सरकार एतद्वारा श्री के. एल. कुमार को, जो केन्द्रीय सरकार के राजपत्रित अधिकारी हैं, उक्त अधिनियम के अन्तर्गत कर वसूली अधिकारी की शक्तियों का प्रयोग करने के लिए प्राधिकृत करती है।

2. यह अधिसूचना, श्री के. एल. कुमार द्वारा कर वसूली अधिकारी के रूप में कार्यभार ग्रहण किए जाने की तारीख से लागू होगी।

[सं. 6247/फा.सं. 398/17/85-आ.कं. (ब)]

भा. नगराजन, उप सचिव

MINISTRY OF FINANCE

(Department of Revenue)

New Delhi, the 7th June, 1985

INCOME-TAX

S.O. 3746.—In pursuance of sub-clause (iii) of clause (44) of Section 2 of the Income-tax Act, 1961 (43 of 1961), and in supersession of Notification of the Government of India in the Department of Revenue No. 5293 F. No. 398/22/83-IT(B) dated the 28-6-1983, the Central Government hereby authorises Shri K. L. Kumar, being Gazetted Officer of the Central Government, to exercise the powers of a Tax Recovery Officer under the said Act.

2. This Notification shall come into force with effect from the date Shri K. L. Kumar takes over charge as Tax Recovery Officer.

[No. 6247/F. No. 398/17/85-IT(B)]

B. NAGARAJAN, Dy. Secy.

आदेश

नई दिल्ली, 24 जुलाई, 1985

स्टाम्प

का.आ. 3747:--भारतीय स्टाम्प अधिनियम, 1899 (1899 का 2) की धारा 9 की उपधारा (1) के खंड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा उस शुल्क को माफ करती है, जो तमिलनाडु इलेक्ट्रिसिटी बोर्ड द्वारा प्रोमिसरी नोटों के रूप में (9 प्रतिशत तमिलनाडु इलेक्ट्रिसिटी बोर्ड ऋण 2000) जारी किए जाने वाले, केवल पांच करोड़ बाइस लाख पचासी हजार, पांच सौ रुपये के मूल्य के बंधपत्रों पर उक्त अधिनियम के अन्तर्गत प्रभार्य है।

[सं. 28/85-स्टाम्प-फा.सं. 33/24/85-बि.क.]

ORDER

New Delhi the 24th July, 1985

STAMPS

S.O. 3747.—In exercise of the power conferred by clause (a) of sub-section (1) of section 9 of the Indian Stamp Act, 1899 (2 of 1899), the Central Government hereby remits the duty with which the bonds in the nature of Promissory

Notes (9 per cent Tamil Nadu Electricity Board Loan 2000) of the value of rupees five crores twenty-two lakhs eighty five thousand five hundred to be issued by Tamil Nadu Electricity Board are chargeable under the said Act.

[No. 28/85-Stamp-F. No. 33/24/85-ST]

का.आ. 3748:--भारतीय स्टाम्प अधिनियम, 1899 (1899 का 2) की धारा 9 की उपधारा (1) के खंड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा मै. डनलप इंडिया लिमिटेड, कलकत्ता को मात्र सात लाख पचास हजार के समेकित स्टाम्प शुल्क की जमायगी करने की अनुमति देती है जो उक्त कंपनी द्वारा मात्र दस करोड़ रुपये के अधिक मूल्य के 15 प्रतिशत असम्परिवर्तनीय ऋण पत्रों (नोट्स श्रृंखला) पर स्टाम्प शुल्क के कारण प्रभार्य है।

[सं. 29/85-स्टाम्प-फा.सं. 33/21/85-बि.कं.]

भगवान दास, अवर सचिव

S.O. 3748.—In exercise of the powers conferred by clause (b) of sub-section (1) of section 9 of the Indian Stamp Act, 1899 (2 of 1899), the Central Government hereby permits M/s. Dunlop India Limited, Calcutta to pay consolidated stamp duty of rupees seven lakhs and fifty thousand only, chargeable on account of the stamp duty on 15 per cent non-Convertible debentures (forth series) of the face value of rupees ten crores only to be issued by the said company.

[No. 29/85/Stamp-F. No. 33/21/85-ST.]

BHAGWAN DAS, Under Secy.

नई दिल्ली, 17 जून, 1985

आयकर

का. आ. 3749:--सर्वसाधारण के जानकारी के लिये एतद्वारा अधिसूचित किया जाता है कि विहित प्राधिकार, अर्थात् विज्ञान और प्रौद्योगिक विभाग, नई दिल्ली, ने निम्नलिखित संस्था को आयकर नियम 1962 के नियम 6 के साथ पठित आयकर अधिनियम 1961 का धारा 35 की उपधारा (1) के खंड (ii) के प्रयोजनों के लिये "संगम" प्रवर्ग के अधिनियम निम्नलिखित शर्तों पर अनुमोदित किया है, अर्थात् :-

1. यह कि दि. एम. एन. शाह रं सर्व फाउण्डेशन फार स्टोन इंस्टीट्यूट वैज्ञानिक अनुसंधान के लिये उसके द्वारा प्राप्त राशियों का पृथक लेखा रहेगा।

2. यह कि उक्त संगठन अपने वैज्ञानिक अनुसंधान संबंध क्रियाकलापों का वार्षिक विवरण, विहित प्राधिकार को प्रत्येक वित्त वर्ष के संबंध में प्रति वर्ष 30 अप्रैल तक ऐसे प्ररूप में प्रस्तुत करेगा जो इस प्रयोजन के लिये अधिकृत किया जाये और उसे सूचित किया जाये।

3. यह कि उक्त संगठन अपना कुल आय तथा व्यय दशति हुए अपने संपर्कित वार्षिक लेखों का तथा अपने परिसंपत्तियां, देनदारियां दशति हुए तुलनपत्र का एक-एक प्रति प्रतिवर्ष 30 जून तक विहित प्राधिकार को प्रस्तुत करेगा तथा इन दस्तावेजों में से प्रत्येक को एक-एक प्रति संबंधित आयकर आयुक्त को भेजेगा।

(4) यह कि उक्त संगठन अनुमोदन का समाप्ति के 3 महीने पहले समयावधि बढ़ाने के लिये केन्द्र प्रत्यक्ष कर बोर्ड, वित्त मंत्रालय, राजस्व विभाग, नई दिल्ली को आवेदन करेगा। आवेदन का तारख के बाद प्राप्त आवेदन पत्रों को रद्द किया जा सकेगा।

संस्था

एम. एल. शाह र सर्व फाउण्डेशन फार स्टोन इंडस्ट्रीज नोबल्स-ए,
तृतीय मंजिल आश्रम रोड, नेहरू पुल के सामने अहमदाबाद-380009

यह अधिसूचना 13-3-1985 से 31-3-1987 तक के अवधि के लिये प्रभाव है।

[सं० 6270 (फा० सं० 203/29/83-आ० क० नि०-11)]

New Delhi, the 17th June, 1985

INCOME-TAX

S.O. 3749.—It is hereby notified for general information that the institution mentioned below has been approved by the Department of Science & Technology, New Delhi, the prescribed authority for the purposes of clause (ii) of sub-section (1) of section 35 of the Income-tax Act, 1961 read with Rule 6 of the Income-tax Rules, 1962 under the category "Association", subject to the following conditions:—

- (i) That the M. L. Shah Research Foundation for Stone Industries, will maintain a separate account of the sums received by it for scientific research.
- (ii) That the said Association will furnish annual returns of its scientific research activities to the Prescribed Authority for every financial year in such forms as may be laid down and intimated to them for this purpose by 30th April each year.
- (iii) That the said Association will submit to the Prescribed Authority by 30th June each year a copy of their audited annual accounts showing their total income and expenditure and balance sheet showing its assets, liabilities with a copy of each of these documents to the concerned Commissioner of Income-tax.
- (iv) That the said Association will apply to C.B.D.T., Ministry of Finance, Department of Revenue, New Delhi 3 months in advance before the expiry of the approval for further extension. Applications received after the date of expiry of approval are liable to be rejected.

INSTITUTION

M. L. Shah Research Foundation for Stone Industries, Nobles-A, 3rd Floor, Ashram Road, Opp. Nehru Bridge, Ahmedabad-380009.

This notification is effective for a period from 13-5-1985 to 31-3-1987.

[No. 6270 (F. No. 203/29/83-ITA-II)]

नई दिल्ली, 21 जून, 1985

आयकर

क्र. प्र. 3750.—यहाँ सूचित की जाना चाहिये कि निम्नलिखित अधिसूचना

दिया जाता है कि निम्नलिखित प्राधिकार, अर्थात् विज्ञान और प्रौद्योगिकी विभाग, नई दिल्ली ने निम्नलिखित संस्था को आयकर नियम, 1962 के नियम 6 के साथ पठित आयकर अधिनियम, 1961 क. धारा 35 क. उपधारा (1) के खंड (ii) के प्रयोजनों के लिये "संगम" श्रेणी के अधिनियमित संस्थान शर्तों पर अनुमोदित किया है, अर्थात्:—

1. यह कि संगम आरामना महर्षि अनुसंधान केन्द्र, बंगलूर वैज्ञानिक अनुसंधान के लिये उनके द्वारा प्राप्त राशियों का पृथक लेखा रखेगा।

2. यह कि उक्त संगम अपने वैज्ञानिक अनुसंधान संबंधी प्रत्येक वर्ष के वार्षिक विवरण, विहित प्राधिकार को प्रत्येक वित्त वर्ष के संबंध में प्रति वर्ष 30 अप्रैल तक ऐसे प्रेषण में प्रस्तुत करेगा जो दिये प्रयोजन के लिये अधिकाधिक किया जाये और उसे सूचित किया जाये।

3. यह कि उक्त संगम अपने कुल आय तथा व्यय दर्शाते हुए अपने संपदा-अंश वार्षिक लेखों का तथा अपनी परिसंपत्तियों, वेन्यारियों दर्शाते हुए तुलना-पत्र का एक एक प्रति, प्रतिवर्ष 30 जून तक विहित प्राधिकार को प्रस्तुत करेगा तथा इन दस्तावेजों में से प्रत्येक का एक-एक प्रति संबंधित आयकर आयुक्त को भेजेगा।

(4) यह कि उक्त संगम अनुमोदन के समान्य होने से तीन माह पूर्व केन्द्र पर्यटन कर बोर्ड, वित्त मंत्रालय (राजस्व विभाग), नार्थ ब्लॉक नई दिल्ली, को और आगे अधि वृद्धि के लिये आवेदन पत्र भेजेगा। आवेदन पत्र प्रस्तुत करने में कोई विलम्ब होने से आवेदन पत्र रद्द किया जा सकता है।

संस्था

"भगवान श्री रामना महर्षि अनुसंधान केन्द्र, बंगलूर।"

यह अधिसूचना 16-2-1985 से 31-3-1986 तक का अवधि के लिये प्रभाव है।

[सं. 6282 फा. सं. 203/230/84-आ. क. नि.-II]

New Delhi, the 21st June, 1985

INCOME-TAX

S.O. 3750.—It is hereby notified for general information that the Institution mentioned below has been approved by the Department of Science and Technology, New Delhi, the Prescribed Authority for the purposes of clause (ii) of sub-section (1) of Section 35 of the Income-tax Act, 1961 read with Rule 6 of the Income-tax Rules, 1962 under the category "Association" subject to the following conditions:—

- (i) That the Bhagwan Sri Ramana Maharshi Research Centre, Bangalore will maintain a separate account of the sums received by it for scientific research.
- (ii) That the said Association will furnish annual returns of its scientific research activities to the Prescribed Authority for every financial year in such forms as may be laid down and intimated to them for this purpose by 30th April each year.
- (iii) That the said Association will submit to the Prescribed Authority by 30th June each year a copy of their audited annual accounts showing their total income and expenditure and balance sheet showing its assets liabilities with a copy of each of these documents to the concerned Commissioner of Income-tax.

- (iv) That the said Association will apply to Central Board of Direct Taxes, Ministry of Finance, (Department of Revenue), North Block, New Delhi, 3 months in advance before the expiry of approval for further extension. Application received after the date of expiry of approval are liable to be rejected.

INSTITUTION

"Bhagawan Sri Ramana Maharshi Research Centre, Bangalore".

This Notification is effective for a period from 16-2-1985 to 31-3-1986.

[No. 6282 (F. No. 203/230/84-ITA-II)]

नई दिल्ली, 26 जून, 1985

आयकर

क्र० आ० 3751—यह हम कार्यालय की दिनांक 24-3-1981 की अधिसूचना सं 3912 (फा सं 203/183/80-आ० का० नि० II) के निम्नलिखित में सर्वसाधारण के जानकारी के लिये पुनः द्वारा अधिसूचित किया जाता है कि विहित प्राधिकार, अर्थात् विज्ञान और प्रौद्योगिकी विभाग, नई दिल्ली ने निम्नलिखित संस्था को आयकर नियम, 1962 के नियम 6 के साथ पठित आयकर अधिनियम, 1961 की धारा 35 के उपधारा (1) के खंड (iii) के प्रयोजनों के लिये "संगम" प्रवर्ग के अर्धन निम्नलिखित शर्तों पर अनुमोदित किया है, अर्थात्:—

(1) यह कि सेंटर फार रजिनाल, इकोलोजिकल एंड साइंस स्टडीस इन डिवलपमेंट आल्टरनेटिव्स, कलकत्ता वैज्ञानिक अनुसंधान के लिये उसके द्वारा प्राप्त राशियों का पृथक् लेखा रखेगा।

(2) यह कि उक्त संस्थान अपने वैज्ञानिक अनुसंधान संबंधी क्रियाकलापों के वार्षिक विवरण, विहित प्राधिकारी को प्रत्येक वित्तिय वर्ष के संबंध में प्रति वर्ष 30 अप्रैल, तक ऐसे प्रारूप में प्रस्तुत करेगा जो इस प्रयोजन के लिये अधिकृत किया जाये और उसे सूचित किया जाये।

(3) यह कि उक्त संस्थान अपने कुल आय तथा व्यय वसति हुए अपने संपर्कित वार्षिक लेखों को तथा अपने परिसम्पत्तियां, देनदारियां वसति हुए तुलन-पत्र को एक-एक प्रति, प्रतिवर्ष 30 जून तक विहित प्राधिकार को प्रस्तुत करेगा, तथा इन दस्तावेजों में से प्रत्येक को एक-एक प्रति संबंधित आयकर आयुक्त को भेजेगा।

(4) यह कि उक्त संस्थान अनुमोदन के समाप्त होने से तम बाद पहले केन्द्र प्रत्यक्ष कर बोर्ड, वित्त मंत्रालय, राजस्व विभाग, नई दिल्ली को और आगे अवधि के लिये आवेदन पत्र भेजेगा। आवेदन पत्र प्रस्तुत करने में कोई विलम्ब होने से आवेदन पत्र रद्द किया जा सकता है।

संस्था

"सेन्टर फार रजिनाल, इकोलोजिकल एंड साइंस स्टडीस इन डिवलपमेंट आल्टरनेटिव्स, कलकत्ता।"

यह अधिसूचना 1/4/1984 से 31/3/1987 तक के अवधि के लिये प्रभाव: है।

सं 6290 (फा सं 203/88/85-आ का नि II)

New Delhi, the 20th June, 1985

INCOME-TAX

S.O. 3751—In continuation of this Office Notification No. 3912 (F. No. 203/183/80-ITA.II) dated 24-3-1981, it is hereby notified for gene-

ral information that the Institution mentioned below has been approved by Department of Science and Technology, New Delhi, the Prescribed Authority for the purposes of clause (iii) of sub-section (1) of Section 35 of the Income-tax Act, 1961 read with Rule 6 of the Income-tax Rules, 1962 under the category "Institution" subject to the following conditions:—

- (i) That the Centre for Regional, Ecological and Science Studies in Development Alternatives, Calcutta will maintain a separate account of the sums received by it for scientific research.
- (ii) That the said Institute will furnish annual returns of its scientific research activities to the Prescribed Authority for every financial year in such forms as may be laid down and intimated to them for this purpose by 30th April each year.
- (iii) That the said Institute will submit to the Prescribed Authority by 30th June each year a copy of their audited annual accounts showing their total income and expenditure and balance sheet showing its assets liabilities with a copy of each of these documents to the concerned Commissioner of Income-tax.
- (iv) That the said Institute will apply to Central Board of Direct Taxes, Ministry of Finance, (Department of Revenue), New Delhi, 3 months in advance before the expiry of the approval for further extension. Applications received after the date of expiry of approval are liable to be rejected.

INSTITUTION

"Centre for Regional, Ecological and Science Studies in Development Alternatives, Calcutta."

This Notification is effective for a period from 1-4-1984 to 31-3-1987.

[No. 6290 (F. No. 203/88/85-ITA.II)]

नई दिल्ली, दिनांक 27 जून, 1985

आयकर

क्र० आ० 3752—सर्वसाधारण के जानकारी के लिये पुनः द्वारा अधिसूचित किया जाता है कि विहित प्राधिकार, अर्थात् विज्ञान और प्रौद्योगिकी विभाग, नई दिल्ली ने निम्नलिखित संस्था को आयकर नियम, 1962 के नियम 6 के साथ पठित आयकर अधिनियम, 1961 की धारा 35 (पेंसिंग) एक/दो का उपधारा (1) के खंड (ii) के प्रयोजनों के लिये "संगम" प्रवर्ग के अर्धन निम्नलिखित शर्तों पर अनुमोदित किया है, अर्थात्:—

1. यह कि आसिम मैट्रिकल रिनर्च इंस्टिट्यूट नागपुर (सं.प्र०) वैज्ञानिक अनुसंधान के लिये उसके द्वारा प्राप्त राशियों का पृथक् लेखा रखेगा।

2. यह कि उक्त संगम अपने वैज्ञानिक अनुसंधान संबंधी क्रियाकलापों के वार्षिक विवरण, विहित प्राधिकारी को प्रत्येक वित्तिय वर्ष के संबंध में प्रति वर्ष 30 अप्रैल, तक ऐसे प्रारूप में प्रस्तुत करेगा जो इस प्रयोजन के लिये अधिकृत किया जाये और उसे सूचित किया जाये।

3. यह कि उक्त संगम अपने कुल आय तथा व्यय वसति हुए अपने संपर्कित वार्षिक लेखों को तथा अपने परिसम्पत्तियां, देनदारियां वसति हुए तुलन-पत्र को एक-एक प्रति, प्रतिवर्ष 30 जून तक विहित प्राधिकार

को प्रस्तुत करेंगे तथा इन दस्तावेजों में से प्रत्येक का एक-एक प्रति संबंधित आयकर आयुक्त को भेजेगा।

(4) यह कि उक्त संगम अनुमोदन के समाप्त होने से तीन माह पहले केन्द्रिय प्रत्यक्ष कर बोर्ड, वित्त मंत्रालय, राजस्व विभाग, नई दिल्ली को और आगे अधि वढ़ाने के लिये आवेदन पत्र भेजेगा। आवेदन पत्र प्रस्तुत करने में कोई विलम्ब होने में आवेदन पत्र रद्द किया जा सकता है।

संस्था

“ग्रसिम मेडिकल रिसर्च इन्स्टिट्यूट, बिरलाग्राम, नागदा (म.प्र.)”

यह अधिसूचना 13-5-1985 से 31-3-1987 तक का अधि के लिये प्रभावी है।

[संख्या 6295 (फा.सं. 203/104/84-आ.क.नि.-II)]

गिरिश दवे, अवर सचिव

New Delhi, the 27th June, 1985

INCOME-TAX

S.O. 3752.—It is hereby notified for general information that the Institution mentioned below has been approved by Department of Science and Technology, New Delhi, the Prescribed Authority for the purposes of clause (ii) of sub-section (1) of Section 35 (Thirty five/One/Two) of the Income-tax Act, 1961 read with Rule 6 of the Income-tax Rules, 1962 under the category “Association” subject to the following conditions —

- (i) That the Grasim Medical Research Institute, Nagda (M.P.) will maintain a separate account of the sums received by it for scientific research.
- (ii) That the said Association will furnish annual returns of its scientific research activities to the Prescribed Authority for every financial year in such forms as may be laid down and intimated to them for this purpose by 30th April each year.
- (iii) That the said Association will submit to the Prescribed Authority by 30th June each year a copy of their audited annual accounts showing their total income and expenditure and balance sheet showing its assets liabilities with a copy of each of these documents to the concerned Commissioner of Income-tax.
- (iv) That the said Association will apply to Central Board of Direct Taxes, Ministry of Finance, (Department of Revenue), New Delhi, 3 months in advance before the expiry of the approval for further extension. Applications received after the date of expiry of approval are liable to be rejected.

INSTITUTION

“Grasim Medical Research Institute, Birlagram, Nagda (M.P.)”.

This Notification is effective for a period from 13-5-1985 to 31-3-1987.

[No. 6295 (F. No. 203/104/84-ITA. II)]

GIRISH DAVE, Under Secy.

केन्द्रिय प्रत्यक्ष कर बोर्ड

नई दिल्ली, दिनांक 29 मई, 1985

(आयकर)

फा. आ. 3753.—आयकर अधिनियम, 1961 (1961 का 43) का धारा 121 का उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रिय प्रत्यक्ष कर बोर्ड समय-समय पर आरंभ की गई अधिसूचनाओं का अधिलेखन करते हुए एतद्वारा दिनांक 1-4-1982 के अधिसूचना संख्या 4554 (फा.सं. 187/25/81-आ.क. (नि.-I) के अनुसूची में निम्नलिखित संशोधन करते हैं :—

- (1) क्रमांक 8ख के सामने कालम 2 में आयकर आयुक्त (जांच) के अधिकार-क्षेत्र को आयकर आयुक्त, दिल्ली-9 जिसका मुख्यालय दिल्ली में होगा, को पुनः पद-नामित किया गया है।
- (2) क्रमांक 8ज के बाद, क्रमांक 8झ के सामने की प्रविष्टियाँ कालम 2, 3 और 4 में जोड़ी गई हैं और कालम 2, 3 और 4 में क्रमांक 8, 8क, 8ख, 8ग, 8घ, 8ङ, 8च, 8छ और 8ज के सामने की वर्तमान प्रविष्टियाँ निम्नलिखित प्रविष्टियों द्वारा प्रतिस्थापित की जाएँगी।

अनुसूची

क्रमांक आयकर आयुक्त	मुख्यालय	क्षेत्राधिकार
1	2	3
8. दिल्ली-I	नई दिल्ली	1. नि स आ (क नि), रेंज-13 नई दिल्ली 2. नि स आ (क नि), रेंज-19, नई दिल्ली 3. विदेश अनुभाग, नई दिल्ली
8क. दिल्ली-II	नई दिल्ली	(क) 1. आ क घ, कंपनी परिमण्डल-1 2. आ क घ, कंपनी परिमण्डल-5 3. आ.क.अ.अ., कंपनी परिमण्डल-6 4. आ क घ, कंपनी परिमण्डल-8 5. आ क घ, कंपनी परिमण्डल-9 6. आ क घ, कंपनी परिमण्डल-11 7. आ क घ, कंपनी परिमण्डल-17 (ख) 1. आ क घ, कंपनी परिमण्डल-18 2. आ क घ, कंपनी परिमण्डल-24 3. आ क घ, कंपनी परिमण्डल-25 4. आ क घ, कंपनी परिमण्डल-4 5. नि स आ (क नि) रेंज-2 6. नि स आ (क नि), रेंज-4 7. नि स आ (क नि), रेंज-5 8. नि स आ (क नि), रेंज-5 अतिरिक्त 9. नि स आ अधिग्रहण रेंज-1 10. नि स आ अधिग्रहण रेंज-2 11. नि स आ अधिग्रहण रेंज-3 12. आ क घ-6(13), नई दिल्ली

8ख. दिल्ली-III नई दिल्ली (क) 1. आ क घ-6 कंपनी परिमण्डल-12
2. आ क घ कंपनी परिमण्डल-13

1	2	3	4	1	2	3	4
			3. प्रा०क०प्र० कंपनी परिमण्डल-13 प्रतिरिक्त				III ख(4) और III वख(8), नई दिल्ली
			4. प्रा०क०प्र० कंपनी परिमण्डल-16				3. जिला-VI (13) नई दिल्ली को छोड़ कर जिला-6 में सभी बाई
			5. प्रा०क०प्र० कंपनी परिमण्डल-20				4. प्रा०क०प्र० विशेष परिमण्डल-XIV और प्रा०क०प्र० V(ख), नई दिल्ली
			6. प्रा०क०प्र० कंपनी परिमण्डल-22				5. जिला-XI, नई दिल्ली में सभी बाई
			7. प्रा०क०प्र० कंपनी परिमण्डल-23				6. नि०स०आ० (कर निर्धारण) रेंज VII, नई दिल्ली
		(ख)	1. प्रा०क०प्र० कंपनी परिमण्डल-2				7. नि०स०आ० (कर निर्धारण) रेंज-13 नई दिल्ली।
			2. प्रा०क०प्र० कंपनी परिमण्डल-7				8. दिल्ली-VIII नई दिल्ली।
			3. प्रा०क०प्र० कंपनी परिमण्डल-10				1. नि०स०आ० (कर निर्धारण) रेंज-14 नई दिल्ली।
			4. प्रा०क०प्र० कंपनी परिमण्डल-14				2. जिला-X, नई दिल्ली में सभी बाई
			5. प्रा०क०प्र० कंपनी परिमण्डल-15				3. डेकवार परिमण्डल, नई दिल्ली जो आयकर आयुक्त दिल्ली-I, II, III, IV, V, VI, VII, VIII, IX और X नई दिल्ली के क्षेत्राधिकार के अन्तर्गत किसी कार्य वा (किसी कार्य को करने के लिये श्रमिकों की सप्साई सहित) करने के लिए वास्तुकार, इंजीनियर और डेकवारों के रूप में व्यापार या कारोबार चलाने वाले सभी व्यक्तियों (फर्मों, उनके सहयोगियों, जैसा भी मामला हो, के मामलों सहित) के मामलों को निपटाता है।
			6. प्रा०क०प्र० कंपनी परिमण्डल-21				4. चार्टर्ड एकाउंटेंट परिमण्डल, जो आयकर आयुक्त, दिल्ली-I, II, III, IV, V, VI, VII, VIII, IX और X नई दिल्ली के क्षेत्राधिकार के अन्तर्गत आने वाले चार्टर्ड एकाउंटेंट के रूप में कारोबार या व्यापार चलाने वाले सभी व्यक्तियों (फर्मों, उनके सहयोगियों के मामलों के सहित) के मामलों को निपटाता है।
			7. प्रा०क०प्र० कंपनी परिमण्डल-21 प्रतिरिक्त				5. यकौल परिमण्डल, नई दिल्ली जो आयकर आयुक्त, दिल्ली-I, II, III, IV, V, VI, VII, VIII, IX, और X नई दिल्ली के क्षेत्राधिकार के अन्तर्गत आने वाले वकीलों सहित) सोलिसिटर और एडवोकेट सहित) के रूप में व्यापार या धन्या चलाने वाले सभी व्यक्तियों (फर्मों, उनके सहयोगियों सहित) के मामलों को निपटाता है।
			8. नि०स०आ० (क०नि०) रेंज-1				6. डाक्टर परिमण्डल, नई दिल्ली जो आयकर आयुक्त, दिल्ली I, II, III, IV, V, VI, VII, VIII, IX और X, नई दिल्ली के क्षेत्राधिकार के अन्तर्गत आने वाले एलोपैथी, होमियोपैथी, यूनानी, आयुर्वेदिक या अन्य कोई प्रणाली के मेडिकल प्रैक्टिशनर या ओपथि, रेडियोलॉजिस्ट और पैथोलॉजिस्ट के रूप में व्यापार या कारोबार चलाने वाले सभी व्यक्तियों (फर्मों,
			9. नि०स०आ० (क०नि०) रेंज-2				
			10. नि०स०आ० (क०नि०) रेंज-6				
			11. नि०स०आ० (क०नि०) रेंज-15				
			12. प्रा०क०प्र० विशेष परिमण्डल-15 नई दिल्ली				
8ग. दिल्ली-IV नई दिल्ली			1. नि०स०आ० (क०नि०) रेंज-9				
			2. नि०स०आ० (क०नि०) रेंज 10				
			3. जिला III-क, नई दिल्ली में सभी बाई				
			4. जिला-III-ख(8) और III-ख (4) नई दिल्ली को छोड़कर जिला-III-ख, नई दिल्ली में सभी बाई				
			5. जिला III-ग, नई दिल्ली में सभी बाई				
			6. परिवहन परिमण्डल, नई दिल्ली, जो आयकर आयुक्त, दिल्ली-I, II, III, IV, V, VI, VII, VIII, IX और X नई दिल्ली के क्षेत्राधिकार के अन्तर्गत सड़क परिवहन प्रचालकों के रूप में कारोबार या व्यापार चलाने वाले सभी व्यक्तियों (फर्मों या कंपनियों सहयोगियों या उनके निदेशकों, जैसा भी मामला हो, के मामलों सहित) के मामलों को निपटाता है।				
8घ. दिल्ली-V नई दिल्ली			1. जिला-II, नई दिल्ली में सभी बाई				
			2. जिला-IV नई दिल्ली में सभी बाई				
			3. बापसी परिमण्डल, नई दिल्ली				
			4. नि०स०आ० (कर निर्धारण), रेंज-XI नई दिल्ली				
			5. नि०स०आ० (क०नि०) रेंज-XII, नई दिल्ली।				
8ङ. दिल्ली-VI नई दिल्ली			1. बेतन परिमण्डल, नई दिल्ली				
			2. प्राइवेट बेतन परिमण्डल, नई दिल्ली				
			3. कर कटौती स्रोत परिमण्डल, नई दिल्ली				
			4. ग्यास परिमण्डल, नई दिल्ली				
			5. भविष्य निधि परिमण्डल, नई दिल्ली				
			6. नि०स०आ० (कर निर्धारण) रेंज-XVII, नई दिल्ली				
8च. दिल्ली-VII नई दिल्ली			1. जिला III (घ), नई दिल्ली में सभी बाई				
			2. जिला-III (19), (23), (27),				

1	2	3	4
			उसके सहयोगियों के मामलों सहित) के मामलों को निपटाना है।
8. नई दिल्ली-IX	नई दिल्ली	1. (जिला V(8), नई दिल्ली को छोड़कर) जिला-V में सभी वार्ड 2. जिला-VIII, नई दिल्ली में सभी वार्ड 3. निम्नानुसार (कर-निर्धारण) रेंज XVIII	
8A. दिल्ली-X	नई दिल्ली	1. जिला-VII, नई दिल्ली में सभी वार्ड 2. जिला-IX, नई दिल्ली में सभी वार्ड 3. जिला-I, नई दिल्ली में सभी वार्ड 4. सभी आयकर अधिकारी सी०आई० बी, नई दिल्ली 5. निम्नानुसार (कर-निर्धारण) रेंज XVI नई दिल्ली 6. सभी आयकर अधिकारी, विशेष और परिमण्डल, नई दिल्ली 7. विशेष परिमण्डल-VI (अतिरिक्त) और विशेष परिमण्डल-XVI, नई दिल्ली जो ऐसे सभी व्यक्तियों के मामलों का निपटान करता है, जिनके संबंध में आंतरिक सुरक्षा अधिनियम (तस्करी कार्यकलापों के लिये) और विदेशी-मुद्रा छल-साधक और/या विदेशी मुद्रा संरक्षण तथा तस्करी कार्यकलाप निवारण अधिनियम, 1974 के अन्तर्गत सख्तबंदी आदेश जारी किये गये हैं और जो आयकर आयुक्त (केन्द्रीय), नई दिल्ली के अतिरिक्त दिल्ली में सभी आयकर आयुक्तों के क्षेत्राधिकार के अन्तर्गत आते हैं। 8. आयकर आयुक्त, दिल्ली-I, II, III, IV, V, VI, VII, VIII, IX और X, नई दिल्ली के क्षेत्राधिकार में समायोजित क्षेत्रों के संबंध में सख्तबंदी की मामलागत शक्ति।	

यह अधिसूचना पहली जून, 1985 से लागू होगी है।

[सं० 6235 (फा० सं० 187/८०/84-आई०टी०ए०आई०)]

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 29th May, 1985

(Income-tax)

S.O. 3753 :— In exercise of the powers conferred by sub-section (1) of Section 121 of the Income tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes in supersession of earlier notification issued from time to time hereby makes the following amendments to the Schedule to its Notification No. 4554 (F.No. 187/25/81-IT (AI) dated 1-4-1982 :—

- The Charge of Commissioner of Income-tax (Inv.) appearing in Col. against S. No. 8G is redesignated as Commissioner of Income-tax, Delhi-IX with headquarters at Delhi.
- After S. No. 8H, entries against S. No. 8-I are added in column 2, 3 & 4 and the existing entries against S. No. 8, 8A, 8B, 8C, 8D, 8E, 8F, 8G and 8H in columns 2, 3 & 4 shall be substituted by the following entries.

SCHEDULE			
S. Commissioner No. of Income-tax.	Headquarters	Jurisdiction	
1	2	3	4
8.	Delhi-I	New Delhi	1. IAC (Asstt), Range-XIII, New Delhi. 2. IAC (Asstt), Range-XIX, New Delhi. 3. Foreign Section, New Delhi.
8A.	Delhi-II	New Delhi. (A)	1. ITO, Coy. Circle-I. 2. ITO, Coy. Circle-V. 3. ITO, Coy. Circle-VI. 4. ITO, Coy. Circle-VIII. 5. ITO, Coy. Circle-IX. 6. ITO, Coy. Circle-XI. 7. ITO, Coy. Circle-XVII. (B) 1. ITO, Coy. Cir. XVIII. 2. ITO, Coy. Cir. XXIV. 3. ITO, Coy. Cir. XXV. 4. ITO, Coy. Cir. IV. 5. IAC (Asstt) Range-III. 6. IAC (Asstt) Range-IV. 7. IAC (Asstt) Range-V. 8. IAC (Asstt) Range-V Addl. 9. IAC, Acq. Range-I. 10. IAC, Acq. Range-II. 11. IAC, Acq. Range-III. 12. ITO-VI(13), New Delhi.
8B.	Delhi-III.	New Delhi	(A) 1. ITO, Coy. Cir. XII. 2. ITO, Coy. Cir. XIII. 3. ITO, Coy. Cir. XIII Adl 4. ITO, Coy. Cir. XVI. 5. ITO, Coy. Cir. XX. 6. ITO, Coy. Cir. XXII. 7. ITO, Coy. Cir. XXIII. (B) 1. ITO, Coy. Cir. II. 2. ITO, Coy. Cir. VII. 3. ITO, Coy. Cir. X. 4. ITO, Coy. Cir. XIV. 5. ITO, Coy. Cir. XV. 6. ITO, Coy. Cir. XXI 7. ITO, Coy. Cir. XXI Addl 8. IAC (Asstt), Range-I. 9. IAC (Asstt.) Range-II. 10. IAC (Asstt.) Range-IV. 11. IAC (Asstt.) Range-XV. 12. ITO., Spl. Cir. XV, New Delhi.
8C.	Delhi-IV.	New Delhi.	1. IAC (Asstt.) Range-IX. 2. IAC (Asstt.) Range-X. 3. All Wards in District III-A, New Delhi. 4. All Wards in District III-B, New Delhi. Except-III-B(8) & III-B(4), New Delhi 5. All Wards in District III-C, New Delhi. 6. Transport Circle, New Delhi dealing with the cases of all persons (including the cases of firms or companies the partners or as the case may be

1	2	3	4	1	2	3	4	
			the Directors thereof) carrying on business or profession as Road Transport Operators under the jurisdiction of Commissioners of Income tax, Delhi-I, II, III, IV, V, VI, VII, VIII, IX and X, New Delhi.				(including in the cases of Firms, Partners thereof) carrying on business of profession as Chartered Accountants under the jurisdiction of Commissioners of Income tax, Delhi-I, II, III, IV, V, VI, VII, VIII, IX and X, New Delhi.	
8D	Delhi-V.	New Delhi.	1. All Wards in District-II, New Delhi. 2. All Wards in District-IV, New Delhi. 3. Refund Circle, New Delhi. 4. IAC (Asstt.) Range-XI, New Delhi. 5. IAC (Asstt.) Range-XII, New Delhi.				5. Lawyers Circles, New Delhi dealing with the cases of all persons (including in the cases of firms, partners thereof carrying on business or profession as Lawyers (including Solicitors and Advocates) under the jurisdiction of Commissioners of Income-tax, Delhi-I, II, III, IV, V, VI, VII, VIII, IX and X, New Delhi.	
8E	Delhi-VI	New Delhi.	1. Salary Circle, New Delhi. 2. Private Salaries Circle, New Delhi. 3. T.D.S. Circles, New Delhi. 4. Trust Circles, New Delhi. 5. Provident Fund Circles, New Delhi. 6. IAC (Asstt.) Range-XVII, New Delhi.				6. Doctors Circle, New Delhi dealing with the cases of all persons (including in the cases of Firms, partners thereof carrying on business or profession as Medical Practitioner of Allopathic, Homeopathic, Unani, Ayurvedic or any other system or Medicines, Radiologists and Pathologists under the jurisdiction of Commissioners of Income tax, Delhi-I, II, III, IV, V, VI, VII, VIII, IX, and X, New Delhi.	
8F	Delhi-VII.	New Delhi.	1. All Wards in District-III(D), New Delhi. 2. District-III(19), (23), (27), III-B(4) & III-B(8), New Delhi. 3. All Wards in District-VI except District-VI(13), New Delhi. 4. ITO. Spl. Circle-XIV and ITO V(8), New Delhi. 5. All Wards in District-XI, New Delhi. 6. IAC (Asstt.) Range-VII, New Delhi. 7. IAC (Asstt.) Range-VII, New Delhi					
				8-H.	Delhi-IX.	New Delhi.	1. All Wards in District-V (Except Distt. V(8), New Delhi. 2. All Wards in Distt. VIII, New Delhi. 3. IAC (Asstt.) Range-XVIII.	
8G.	Delhi-VIII.	New Delhi.	1. IAC(Assessment) Range-XIV New Delhi 2. All Wards in District-X, New Delhi 3. Contractors Circle, New Delhi dealing with the cases of all persons (including the cases of firms their partners as the case may be) carrying on business or profession as Architects, Engineers and Contractors for carrying out any work (including supply of labour for carrying out any work) under the jurisdiction of commissioners of Income-tax, Delhi-I, II, III, IV, V, VI, VII, VIII, IX and X, New Delhi. 4. Chartered Accountants Circle New Delhi dealing with the cases of all persons		8-I.	Delhi-X.	New Delhi.	1. All Wards in District-VII, New Delhi. 2. All Wards in Distt. IX New Delhi. 3. All Wards in Distt. I, New Delhi. 4. All ITOs, C.L.B., New Delhi. 5. IAC (Asstt.) Range-XVI, New Delhi. 6. All ITOs, Spl. Investigation Circles, New Delhi. 7. Special circle-VI (Addl.) & Special Circle-XVI, New Delhi for dealing with the cases of all persons in respect of whom an order of detention has been made under the Maintenance of Internal Security Act (for smuggling Activities) and Foreign Exchange racketeering and/or Conservation of Foreign Exchange and Prevention of Smuggling Activities Act,

1	1	3	4
			1974 and which are under the jurisdiction of all Commissioners of Income-tax at Delhi excluding the Commissioners of Income-tax (Central), New Delhi.
			8. General power of Survey in respect of areas comprised in the jurisdiction of Commissioners of Income-tax, Delhi-I, II, III, IV, V, VI, VII, VIII, IX, New Delhi.

This notification takes effect from 1st June, 1985.

[No. 6235 (F. No. 187/20/84—IT (AI)]

नई दिल्ली, 7 जून 1985

धायक

शुद्धिपत्र

का. आ. 3754.—धायक अधिनियम, 1961 का धारा 121 के उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रिय प्रत्यक्ष कर बोर्ड दिनांक 29-5-1985 को अधिसूचना संख्या 6235 के संबंध में निम्नलिखित शुद्धिपत्र जारी करता है:—

- (i) क्रमांक 8 अ के सामने कालम के मद संख्या 2 में आने वाले जिला III (23) के स्थान पर जिला III (20) पढ़िए।
 - (ii) क्रमांक 8 छ के सामने कालम 4 में आने वाले मद संख्या 6 के बाद निम्नलिखित जोड़िए:
7. संपदा शुल्क एवं धायक, नई दिल्ली;
8. अपर सम्पदा शुल्क एवं धायक, नई दिल्ली।

[संख्या 6249 (फा. सं. 187/20/84 धा. क. नि. I)]
आर. के. तिहारी, अवर सचिव
केन्द्रिय प्रत्यक्ष कर बोर्ड

New Delhi, the 7th June, 1985

(INCOME-TAX)

CORRIGENDUM

S.O. 3754.—In exercise of the powers conferred by sub-section (1) of Section 121 of the Income-tax Act, 1961, the Central Board of Direct Taxes issues the following corrigendum in respect of Notification No. 6235 dated 29-5-1985:

- (i) For Distt. III(23) appearing in Item No. 2 of Col. 4 against S. No. 8F read Distt. III(20).
 - (ii) After Item No. 6 appearing in Col. 4 against S. No. 8G add:
7. Estate Duty-cum-Income-tax, New Delhi.
8. Addl. Estate Duty-cum-Income-tax, New Delhi.

[No. 6249 (F. No. 187/20/84-IT (AI))
R. K. TEWARI, Under Secy.
Central Board of Direct Taxes

बाणिज्य मंत्रालय

नई दिल्ली, 24 जुलाई, 1985

रबड़ नियंत्रण

कां.आ. 3755.—रबड़ अधिनियम, 1947 (1947 का 24) की धारा 4 की उपधारा (3) के खण्ड (क) द्वारा प्रदत्त शक्तियों का

प्रयोग करते हुए, केन्द्रीय सरकार श्री पी.सी. थोमस, गांधी (नमिलमाई 66 को 15 जुलाई 1985 अपराह्न) से श्री पी.जे. थोमस के स्थान रबड़ बोर्ड, कोट्टायम के अध्यक्ष के रूप में नियुक्त करती है।

[फाइल सं. 21/15/83-प्लांट(बी.)

बी.एस. नेगी, अवर सचिव

MINISTRY OF COMMERCE

New Delhi, the 24th July, 1985

(RUBBER CONTROL)

S.O. 3755.—In exercise of the powers conferred by clause (a) of sub-section (3) of section 4 of the Rubber Act, 1947 (24 of 1947), the Central Government appoints Shri P. C. Cyriac, IAS (TN: 66), as Chairman of the Rubber Board, Kottayam with effect from the 15th July, 1985 (afternoon) in place of Shri P. J. Thomas.

[File No. 21/15/83-Plant (B)]

B.M.S. NEGI, Under Secy.

(बाणिज्य विभाग)

नई दिल्ली, 23 जुलाई, 1985

कां.आ. 3756.—केन्द्रीय सरकार, गामुद्रिक उत्पाद निर्यात विकास प्राधिकरण नियम, 1972 के नियम 3 और 4 के माध्यम से गामुद्रिक उत्पाद-निर्यात विकास प्राधिकरण अधिनियम, 1972 (1972 का 13) की धारा 4 की उपधारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, निम्नलिखित व्यक्तियों को गामुद्रिक उत्पाद निर्यात विकास प्राधिकरण का सदस्य नियुक्त करती है:—

- (1) संयुक्त सचिव, भारमाधक मत्स्य पालन कृषि और सहकारिता विभाग, नई दिल्ली
- (2) श्री जी.सी. भंडारी, निदेशक (बिल) बाणिज्य मंत्रालय, नई दिल्ली

और भारत सरकार के बाणिज्य मंत्रालय के बाणिज्य विभाग की अधिसूचना सं. कां.आ. 2955 तारीख 11 जुलाई, 1983 में निम्नलिखित संशोधन करती है, अर्थात्:—

उक्त अधिसूचना में क्रम सं. 6 और 7 और तत्संबंधी प्रविष्टियों के स्थान पर निम्नलिखित रखा जाएगा, अर्थात्:—

“6 संयुक्त सचिव, भारमाधक मत्स्य पालन कृषि और सहकारिता विभाग, नई दिल्ली।

7. श्री जी.सी. भंडारी, निदेशक (बिल) बाणिज्य मंत्रालय, नई दिल्ली।

[सं. 1 एम/18/81-ई.पी. (एम.पी.)

जी. कृष्णमूर्ति, अवर सचिव

(Department of Commerce)

New Delhi, the 23rd July, 1985

S.O. 3756.—In exercise of the powers conferred by sub-section (3) of Section 4 of the Marine Products Export Development Authority Act, 1972 (13 of 1972), read with rule 3 and rule 4 of the Marine Products Export Development Authority Rules, 1972, the Central Government hereby appoints the following persons to be Members of the Marine Products Export Development Authority:—

- (1) Joint Secretary, In-charge of Fisheries, Department of Agriculture and Cooperation, New Delhi.
- (2) Shri G. C. Bhandari, Director (Finance) Ministry of Commerce, New Delhi.

and makes the following amendments in the Notification of the Government of India, in the Ministry of Commerce, Department of Commerce No. S.O. 2955, dated the 11th July, 1983, namely:—

In the said Notification, for S. Nos. 6 and 7 and the entries relating thereto, the following shall be substituted, namely:—

"6. Joint Secretary, Incharge of Fisheries, Department of Agriculture and Cooperation, New Delhi.

7. Shri G. C. Bhandari, Director (Finance), Ministry of Commerce, New Delhi".

[No. 1M/18/81-EP (MP)]

G. KRISHNAMURTHY, Under Secy.

(मुख्य नियंत्रक, आयात एवं निर्यात का कार्यालय)

नई दिल्ली, 24 जुलाई, 1985

आदेश

का०आ० 3757.—ले० रमेश चन्द्र विरमानी (अवकाश प्राप्त), सहायप्रबंधक, मोना इंडस्ट्रिज, तनजोंग क्लिंग एक टी जेड पी० ओ० बाय० 281, मलाक्का, मलेशिया की 1,82,000 रुपए मूल्य का एक मर्सेडिज बेंज कार मॉडल 2500 का आयात करने के लिए एक सीमा शुल्क निकासी परमिट सं० पी०जे०/3051788/एन/एम पी०/95/एच/85, दिनांक 13-5-1985 दिया गया था। आवेदक ने उक्त सीमा शुल्क निकासी परमिट की अनुलिपि प्रति जारी करने के लिए हम आधार पर आवेदन किया है कि मूल सीमा शुल्क निकासी परमिट खो गया है। अतः यह भी बताया गया है कि मूल सीमा शुल्क निकासी परमिट किसी भी पक्षन प्राधिकारी के पास पंजीकृत नहीं किया गया था और हम प्रकार सीमा शुल्क निकासी परमिट बिल्कुल भी उपयोग में नहीं लाया गया है।

2. अपने तर्कों के समर्थन में आवेदक ने उचित न्यायिक प्राधिकारी के सम्मुख विधिवत शपथ लेते हुए एक शपथ पत्र दाखिल किया है। तबनुसार, मैं संतुष्ट हूँ कि आवेदक द्वारा मूल सीमा शुल्क निकासी परमिट सं० पी०जे०/3051788, दिनांक 13-5-1985 ग़ुम हो गया है। समय समय पर यथा संशोधित आयात (नियंत्रण) आदेश, 1955 दिनांक 7-12-1955 की उपधारा 8 (सी सी) के अन्तर्गत प्रदत्त अधिकारों का प्रयोग करते हुए श्री आर.सी. विरमानी को जारी किए गए उक्त मूल सीमा शुल्क निकासी परमिट सं० पी०जे०/3051788, दिनांक 13-5-1985 एन० द्वारा रद्द किया जाना है।

3. सीमा शुल्क निकासी परमिट की अनुलिपि प्रति पार्टी को अलग से जारी की जा रही है।

[फाइल सं० ए/बी-8/85-86/वी एन एम/1314]

बी०आर० अहिर, उप मुख्य नियंत्रक, आयात एवं निर्यात
उत्ते मुख्य नियंत्रक, आयात एवं निर्यात

(Office of the Chief Controller of Imports and Exports)

New Delhi, the 24th July, 1985

ORDER

S.O. 3757.—Lt. Col. Ramesh Chander Virmani (Retd.), General Manager, Mona Industries, Tanjong Kling F-T-Z P.O. 281, Malacca, Malaysia was granted a Customs Clearance Permit No. P/I/3051788/N/MP/95/H/85 dt. 13-5-85 for the import of one No. Mercedes Benz car model 2500 valued at Rs. 1,82,000. The applicant has applied for issue of Duplicate copy of the above mentioned Customs Clearance Permit on the ground that the original CCP has been misplaced. It has further been stated that the original CCP was not registered with any Customs Authority and such the value of the CCP has not been utilised at all.

2. In support of his contention, the licensee has filed an affidavit duly sworn before appropriate judicial authority. I am accordingly satisfied that the original CCP No. P/I/

3051788 dated 13-5-85 has been lost by the applicant. In exercise of the powers conferred under sub-clause 9(cc) of the Import (Control) Order, 1955 dated 7-12-1955 as amended from time to time, the said original CCP No. P/I/3051788 dated 13-5-85 issued to Shri R. C. Virmani is hereby cancelled.

3. A duplicate copy of the Customs Clearance Permit is being issued to the party separately.

[F. No. A/V-8/85-86/DLS/1314]

B. R. AHIR, Dy. Chief Controller of Imports and Exports

For Chief Controller of Imports & Exports

विदेश मंत्रालय

नई दिल्ली, 25 जुलाई, 1985

का०आ० 3758.—राजनयिक एवं कौंसली अधिकारी (शपथ एवं शुल्क) अधिनियम, 1948 (1948 का 41 वाँ) की धारा 2 के खंड (क) के अनुपालन में केन्द्र सरकार इसके द्वारा ओडेसा स्थित भारत के प्रधान-कौंसलायाम में सहायक श्री एम०एस० मेनन को 8-7-85 से कौंसली एजेंट के कार्य करने के लिए प्राधिकृत करती है।

[संख्या टी 4330/1/85]

MINISTRY OF EXTERNAL AFFAIRS

New Delhi, the 25th July, 1985

S.O. 3758.—In pursuance of the clause (a) of Section 2, of the Diplomatic and Consular Officers (Oaths and Fees) Act, 1948 (41 of 1948), the Central Government hereby authorise Shri M. S. Menon, Assistant in the Consulate General of India, Odessa to perform the duties of Consular Agent with effect from 8-7-85.

[No. T.4330/1/85]

नई दिल्ली 23 जुलाई, 1985

का०आ० 3759.—राजनयिक एवं कौंसली अधिकारी (शपथ एवं शुल्क) अधिनियम, 1948 (1948 का 41 वाँ) की धारा 2 के खंड (क) के अनुपालन में केन्द्र सरकार इसके द्वारा, रियाध स्थित भारत के राजदूतावास में सहायक श्री बी० आनन्द को 1-7-85 से कौंसली एजेंट का कार्य करने के लिए प्राधिकृत करता है।

[सं. टी. 4330/1/85]

को०जे.एस. सोधी, अवर सचिव

New Delhi, the 23rd July, 1985

S.O. 3759.—In pursuance of the clause (a) of Section 2 of the Diplomatic and Consular Officers (Oaths and Fees) Act, 1948 (41 of 1948), the Central Government hereby authorises Shri V. Anand, Assistant in the Embassy of India, Riyadh to perform the duties of Consular Agent with effect from 1-7-1985.

[No. T. 4330/1/85]

K.J.S. SODHI, Under Secy.

उद्योग और कम्पनी कार्य मंत्रालय

(कम्पनी कार्य विभाग)

नई दिल्ली, 24 जुलाई, 1985

का०आ० 3760.—एकाधिकार तथा अवरोधक व्यापारिक व्यवहार अधिनियम, 1969 (1969 का 34) की धारा 26 की उप धारा (3) के अनुसरण में केन्द्रीय सरकार एन० द्वारा मैसर्स आर्क हम्ब्रेस्टम एण्ड

ऑलर्स लिमिटेड, पंजीकृत कार्यालय 4/1, रेडक्रॉस प्लेस, कलकत्ता-700001 के कथित अधिनियम के अन्तर्गत पंजीकरण (पंजीकरण प्रमाण पत्र संख्या 1867/84) के निरस्तीकरण को अधिसूचित करती है।

[सं० 16/54/85-एम-3]

MINISTRY OF INDUSTRY AND COMPANY AFFAIRS
(Department of Company Affairs)

New Delhi, the 24th July, 1985

S.O. 3760.—In pursuance of Sub-section (3) of Section 26 of the Monopolies and Restrictive Trade Practices Act, 1969 (54 of 1969), the Central Government hereby notifies the cancellation of the registration of M/s. Aboo Investors and Dealers Limited, having its registered office at 4/1, Red Cross Place, Calcutta-700 001 under the said Act (Certificate of Registration No. 1867/84).

[No. 16/54/85-M.III]

का.आ. 3761.—एकाधिकार तथा अवरोधक व्यापारिक व्यवहार अधिनियम, 1969 (1969 का 54) की धारा 26 की उप-धारा (3) के अनुसरण में केन्द्रीय सरकार एतद्वारा मैसर्स बापी इन्वेस्टमेंट्स लिमिटेड पंजीकृत कार्यालय 9-ब्राबोर्न रोड, कलकत्ता-700001 के कथित अधिनियम के अन्तर्गत पंजीकरण (पंजीकरण प्रमाण पत्र संख्या 2253/85) के निरस्तीकरण को अधिसूचित करती है।

[सं० 16/80/85-एम-3]

S.O. 3761.—In pursuance of Sub-section (3) of Section 26 of the Monopolies and Restrictive Trade Practices Act, 1969 (54 of 1969), the Central Government hereby notifies the cancellation of the registration of M/s. Vapi Investments Limited, having its registered office at 9, Brabourne Road, Calcutta-700 001 under the said Act (Certificate of Registration No. 2253/85).

[No. 16/80/85-M.III]

का.आ. 3762.—एकाधिकार तथा अवरोधक व्यापारिक व्यवहार अधिनियम, 1969 (1969 का 44) की धारा 26 की उप-धारा (3) के अनुसरण में केन्द्रीय सरकार एतद्वारा मैसर्स रिलायन्स फाइबर्स लिमिटेड पंजीकृत कार्यालय 9, ब्राबोर्न रोड, कलकत्ता-700001 के कथित अधिनियम के अन्तर्गत पंजीकरण (पंजीकरण प्रमाण पत्र संख्या 2218/85) के निरस्तीकरण को अधिसूचित करती है।

[सं० 16/81/85-एम-3]

S.O. 3762.—In pursuance of Sub-section (3) of Section 26 of the Monopolies and Restrictive Trade Practices Act, 1969 (54 of 1969), the Central Government hereby notifies the cancellation of the registration of M/s. Reliance Fibres Limited having its registered office at 9, Brabourne Road, Calcutta-700 001 under the said Act (Certificate of Registration No. 2218/85).

[No. 16/81/85-M. III]

का.आ. 3763.—एकाधिकार तथा अवरोधक व्यापारिक व्यवहार अधिनियम, 1969 (1969 का 54) की धारा 26 की उप-धारा (3) के अनुसरण में केन्द्रीय सरकार एतद्वारा मैसर्स केसरी केमिकल्स लिमिटेड पंजीकृत कार्यालय 9, ब्राबोर्न रोड, कलकत्ता-700001 के कथित अधिनियम के अन्तर्गत पंजीकरण (पंजीकरण प्रमाणपत्र संख्या 2250/85) के निरस्तीकरण को अधिसूचित करती है।

[सं० 16/82/85-एम.-3]

S.O. 3763.—In pursuance of Sub-section (3) of Section 26 of the Monopolies and Restrictive Trade Practices Act, 1969 (54 of 1969), the Central Government hereby notifies the cancellation of the registration of M/s. Keshari Chemi-

cals Limited having its registered office at 9, Brabourne Road, Calcutta-700 001 under the said Act (Certificate of Registration No. 2250/85).

[No. 16/82/85-M.III]

का.आ. 3764.—एकाधिकार तथा अवरोधक व्यापारिक व्यवहार अधिनियम, 1969 (1969 का 54) की धारा 26 की उप-धारा (3) के अनुसरण में केन्द्रीय सरकार एतद्वारा मैसर्स रिलायन्स सर्विसेज एण्ड कन्सल्टेन्ट्स लिमिटेड पंजीकृत कार्यालय 9-ब्राबोर्न रोड, कलकत्ता-700001 के कथित अधिनियम के अन्तर्गत पंजीकरण (पंजीकरण प्रमाणपत्र संख्या 2247/85) के निरस्तीकरण को अधिसूचित करती है।

[सं० 16/83/85-एम-3]

S.O. 3764.—In pursuance of Sub-section (3) of Section 26 of the Monopolies and Restrictive Trade Practices Act, 1969 (54 of 1969), the Central Government hereby notifies the cancellation of the registration of M/s. Reliance Services and Consultants Ltd., having its registered office at Brabourne Road, Calcutta-700 001 under the said Act (Certificate of Registration No. 2217/85).

[No. 16/83/85-M.III]

का.आ. 3765.—एकाधिकार तथा अवरोधक व्यापारिक व्यवहार अधिनियम, 1969 (1969 का 54) की धारा 26 की उप-धारा (3) के अनुसरण में केन्द्रीय सरकार एतद्वारा मैसर्स पी.के. बीजिनेन्स इन्टर-प्राइस लिमिटेड पंजीकृत कार्यालय 9-ब्राबोर्न रोड, कलकत्ता-700001 के कथित अधिनियम के अन्तर्गत पंजीकरण (पंजीकरण प्रमाणपत्र संख्या 2248/85) के निरस्तीकरण को अधिसूचित करती है।

[सं० 16/84/85-एम.-3]

S.O. 3765.—In pursuance of Sub-section (3) of Section 26 of the Monopolies and Restrictive Trade Practices Act, 1969 (54 of 1969), the Central Government hereby notifies the cancellation of the registration of M/s. P. K. Business Enterprise Ltd. having its registered office at 9, Brabourne Road, Calcutta-700 001 under the said Act (Certificate of Registration No. 2248/85).

[No. 16/84/85-M.III]

का.आ. 3766.—एकाधिकार तथा अवरोधक व्यापारिक व्यवहार अधिनियम, 1969 (1969 का 54) की धारा 26 की उप-धारा (3) के अनुसरण में केन्द्रीय सरकार एतद्वारा मैसर्स बी.पी. इन्वेस्टमेंट्स लिमिटेड पंजीकृत कार्यालय 9-ब्राबोर्न रोड, कलकत्ता-700001 के कथित अधिनियम के अन्तर्गत पंजीकरण (पंजीकरण प्रमाणपत्र संख्या 2252/85) के निरस्तीकरण को अधिसूचित करती है।

[सं० 16/86/85-एम.-3]

S.O. 3766.—In pursuance of Sub-section (3) of Section 26 of the Monopolies and Restrictive Trade Practices Act, 1969 (54 of 1969), the Central Government hereby notifies the cancellation of the registration of M/s. B. P. Investments Limited having its registered office at 9, Brabourne Road, Calcutta-700 001 under the said Act (Certificate of Registration No. 2252/85).

[No. 16/86/85-M.III]

का.आ. 3767.—एकाधिकार तथा अवरोधक व्यापारिक अधिनियम, 1969 (1969 का 54) की धारा 26 की उप-धारा (3) के अनुसरण में केन्द्रीय सरकार एतद्वारा मैसर्स विनस जूट कम्पनी लिमिटेड पंजीकृत कार्यालय 9-ब्राबोर्न रोड, कलकत्ता, 700001 के कथित अधिनियम के अन्तर्गत पंजीकरण प्रमाणपत्र संख्या 2249/85 के निरस्तीकरण को अधिसूचित करती है।

[सं० 16/87/85-एम-3]

S.O. 3767.—In pursuance of Sub-section (3) of Section 26 of the Monopolies and Restrictive Trade Practices Act, 1969 (54 of 1969), the Central Government hereby notifies the cancellation of the registration of M/s. Vinit Jute Company Limited having its registered office at 9, Brabourne Road, Calcutta-700 001 under the said Act (Certificate of Registration No. 2249/85).

[No. 16/87/85-M III]

का.प्रा. 3768.—एकाधिकार तथा अवरोधक व्यापारिक व्यवहार अधिनियम, 1969 (1969 का 54) की धारा 26 की उप-धारा (3) के अनुसरण में केन्द्रिय सरकार एतद्वारा मेसर्स दा प्रतापपुर सुगर एण्ड इंडस्ट्रिज लिमिटेड, पंज कृत कार्यालय 9, ब्राबोर्न रोड, कलकत्ता 700 001 के कथित अधिनियम के अंतर्गत पंजीकरण (पंजीकरण प्रमाण-पत्र संख्या 2217/85) के निरस्त करण को अधिसूचित करता है।

[सं. 16/88/85-एम-3]

S.O. 3768.—In pursuance of Sub-section (3) of Section 26 of the Monopolies and Restrictive Trade Practices Act, 1969 (54 of 1969), the Central Government hereby notifies the cancellation of the registration of M/s. The Pratappur Sugar and Industries Ltd., having its registered office at 9, Brabourne Road, Calcutta-700 001 under the said Act (Certificate of Registration No. 2217/85).

[No. 16/88/85-M III]

का.प्रा. 3769.—एकाधिकार तथा अवरोधक व्यापारिक व्यवहार अधिनियम, 1969 (1969 का 54) की धारा 26 की उप-धारा (3) के अनुसरण में केन्द्रिय सरकार एतद्वारा मेसर्स अजय इन्वेस्टमेंट इन्टरप्राइज लिमिटेड, पंज कृत कार्यालय 9, ब्राबोर्न रोड, कलकत्ता-700 001 के कथित अधिनियम के अंतर्गत पंजीकरण (पंजीकरण प्रमाण-पत्र संख्या 2251/85) के निरस्त करण को अधिसूचित करता है।

[सं. 16/89/85-एक-3]

S.O. 3769.—In pursuance of Sub-section (3) of Section 26 of the Monopolies and Restrictive Trade Practices Act, 1969 (54 of 1969) the Central Government hereby notifies the cancellation of the registration of M/s. Ajay Investment Enterprise Limited having its registered office at 9, Brabourne Road, Calcutta 700 001 under the said Act (Certificate of Registration No. 2251/85).

[No. 16/89/85-M III]

नई दिल्ली, 25 जुलाई, 1985

का. प्रा. 3770.—एकाधिकार तथा अवरोधक व्यापारिक व्यवहार अधिनियम, 1969 (1969 का 54) की धारा 26 की उप-धारा (3) के अनुसरण में केन्द्रिय सरकार एतद्वारा मेसर्स एम पी. होल्डिंग्स प्रा लिमिटेड, पंज कृत कार्यालय 9, ब्राबोर्न रोड, कलकत्ता-1 के कथित अधिनियम के अंतर्गत पंजीकरण (पंजीकरण प्रमाण-पत्र संख्या 2215/85) के निरस्त करण को अधिसूचित करता है।

[सं. 16/79/85-एम-3]

New Delhi, the 25th July, 1985

3770.—In pursuance of Sub-section (3) of Section 26 of the Monopolies and Restrictive Trade Practices Act, 1969 (54 of 1969), the Central Government hereby notifies the cancellation of the registration of M/s. P. K. Holdings Private Limited, having its registered office at 9, Brabourne Road, Calcutta-1 under the said Act (Certificate of Registration No. 2215/85).

[No. 16/79/85-M III]

का. प्रा. 3771.—एकाधिकार तथा अवरोधक व्यापारिक व्यवहार अधिनियम, 1969 (1969 का 54) की धारा 26 की उप-धारा (3) के अनुसरण में केन्द्रिय सरकार एतद्वारा मेसर्स स्वदेशी एजेंसीज

लिमिटेड, पंज कृत कार्यालय 9, ब्राबोर्न रोड, कलकत्ता-700 001 के कथित अधिनियम के अंतर्गत पंजीकरण (पंजीकरण प्रमाण-पत्र संख्या 2216/85) के निरस्त करण को अधिसूचित करता है।

[सं. 16/85/85-एम.-3]

S.O. 3771.—In pursuance of Sub-section (3) of Section 26 of the Monopolies and Restrictive Trade Practices Act, 1969 (54 of 1969), the Central Government hereby notifies the cancellation of the registration of M/s. Swadeshi Agencies Limited having its registered office at 9, Brabourne Road, Calcutta-700 001 under the said Act (Certificate of Registration No. 2216/85).

[No. 16/85/85-M III]

का.प्रा. 3772.—एकाधिकार तथा अवरोधक व्यापारिक व्यवहार अधिनियम, 1969 (1969 का 54) की धारा 26 की उप-धारा (3) के अनुसरण में केन्द्रिय सरकार एतद्वारा मेसर्स कपिलवस्तु प्राइवेट लिमिटेड, पंज कृत कार्यालय 2, सुन्नी पार्क, कलकत्ता-19 के कथित अधिनियम के अंतर्गत पंजीकरण (पंजीकरण प्रमाण-पत्र संख्या 1988/84) के निरस्त करण को अधिसूचित करता है।

[सं. 16/91/85-एम-3]

S.O. 3772.—In pursuance of Sub-section (3) of Section 26 of the Monopolies and Restrictive Trade Practices Act, 1969 (54 of 1969), the Central Government hereby notifies the cancellation of the registration of M/s. Kapilvastu Private Limited having its registered office at 2, Sunny Park, Calcutta-19 under the said Act (Certificate of Registration No. 1988/84).

[No. 16/91/85-M III]

का.प्रा. 3773.—एकाधिकार तथा अवरोधक व्यापारिक व्यवहार अधिनियम, 1969 (1969 का 54) की धारा 26 की उप-धारा (3) के अनुसरण में केन्द्रिय सरकार एतद्वारा मेसर्स कर्तिवर्धन प्राइवेट लिमिटेड, पंज कृत कार्यालय 2, सुन्नी पार्क, कलकत्ता-700 019 के कथित अधिनियम के अंतर्गत पंजीकरण (पंजीकरण प्रमाण-पत्र संख्या 1794/84) के निरस्त करण को अधिसूचित करता है।

[सं. 16/92/85-एम.-3]

S.O. 3773.—In pursuance of Sub-section (3) of Section 26 of the Monopolies and Restrictive Trade Practices Act, 1969 (54 of 1969), the registration of M/s. Kirtivardhan the cancellation of the registration of M/s. Kirtivardhan Private Limited having its registered office at 2, Sunny Park, Calcutta-700 019 under the said Act (Certificate of Registration No. 1794/84).

[No. 16/92/85-M. III]

का.प्रा. 3774.—एकाधिकार तथा अवरोधक व्यापारिक व्यवहार अधिनियम, 1969 (1969 का 54) की धारा 26 की उप-धारा (3) के अनुसरण में केन्द्रिय सरकार एतद्वारा मेसर्स एस पी. डीलर्स प्रा. लिमिटेड, पंज कृत कार्यालय 2, सुन्नी पार्क, कलकत्ता-700 019 के कथित अधिनियम के अंतर्गत पंजीकरण (पंजीकरण प्रमाण-पत्र संख्या 1987/84) के निरस्त करण को अधिसूचित करता है।

[सं. 16/93/85-एम-3]

S.O. 3774.—In pursuance of Sub-section (3) of Section 26 of the Monopolies and Restrictive Trade Practices Act, 1969 (54 of 1969), the Central Government hereby notifies the cancellation of the registration of M/s. S. P. Dealers Pvt. Limited having its registered office at 2, Sunny Park, Calcutta-700 019, under the said Act (Certificate of Registration No. 1987/84).

[No. 16/93/85-M-III]

का. आ. 3775.—एकाधिकार तथा अवरोधक व्यापारिक व्यवहार अधिनियम, 1969 (1969 का 54) के धारा 26 की उपधारा (3) के अनुसरण में केन्द्रीय सरकार एतद्वारा मैसर्स वार्धन लिमिटेड पंजीकृत कार्यालय 2-सुन्नी पार्क, कलकत्ता-700019 के कथित अधिनियम के अन्तर्गत पंजीकरण (पंजीकरण प्रमाण-पत्र संख्या 1995/84) के निरस्त-करण को अधिसूचित करता है।

[सं. 16/94/85-एम-3]

S.O. 3775.—In pursuance of Sub-section (3) of Section 26 of the Monopolies and Restrictive Trade Practices Act, 1969 (54 of 1969), the Central Government hereby notifies the cancellation of the registration of M/s. Vardhan Limited having its registered office at 2, Sunny Park, Calcutta-700019 under the said Act (Certificate of Registration No. 1995/84).

[No. 16/94/85-M III]

का. आ. 3776.—एकाधिकार तथा अवरोधक व्यापारिक व्यवहार अधिनियम, 1969 (1969 का 54) के धारा 26 की उपधारा (3) के अनुसरण में केन्द्रीय सरकार एतद्वारा मैसर्स शौरभ इन्वेंटमेंट प्रा. लि. पंजीकृत कार्यालय 2-सुन्नी पार्क कलकत्ता, 700019 के कथित अधिनियम के अन्तर्गत पंजीकरण (पंजीकरण प्रमाण-पत्र संख्या 1993/84) के निरस्त-करण को अधिसूचित करता है।

[सं. 16/95/85-एम.-3]

S.O. 3776.—In pursuance of Sub-section (3) of Section 26 of the Monopolies and Restrictive Trade Practices Act, 1969 (54 of 1969), the Central Government hereby notifies the cancellation of the registration of M/s. Sorabh Investments Private Limited having its registered office at 2, Sunny Park, Calcutta-700019 under the said Act (Certificate of Registration No. 1993/84).

[No. 16/95/85-M III]

का. आ. 3777.—एकाधिकार तथा अवरोधक व्यापारिक व्यवहार अधिनियम 1969 (1969 का 54) के धारा 26 की उपधारा (3) के अनुसरण में केन्द्रीय सरकार एतद्वारा मैसर्स कनोर्बिया अल्कलिस एण्ड प्लास्टिक्स लिमिटेड, पंजीकृत कार्यालय 16-ए, ब्राबोर्न रोड, कलकत्ता-700001 के कथित अधिनियम के अन्तर्गत पंजीकरण (पंजीकरण प्रमाण-पत्र संख्या 1672/83) के निरस्त-करण को अधिसूचित करता है।

[सं. 16/96/85-एम.-3]

S.O. 3777.—In pursuance of Sub-section (3) of Section 26 of the Monopolies and Restrictive Trade Practices Act, 1969 (54 of 1969), the Central Government hereby notifies the cancellation of the registration of M/s. Kanoria Alkalies and Plastics Limited having its registered office at 16A, Brabourne Road, Calcutta-700001 under the said Act (Certificate of Registration No. 1672/83).

[No. 16/96/85-M III]

का. आ. 3778.—एकाधिकार तथा अवरोधक व्यापारिक व्यवहार अधिनियम, 1969 (1969 का 54) के धारा 26 की उपधारा (3) के अनुसरण में केन्द्रीय सरकार एतद्वारा मैसर्स उत्कर्ष प्रा. लिमिटेड पंजीकृत कार्यालय 2-सुन्नी पार्क, कलकत्ता-700019 के कथित अधिनियम के अन्तर्गत पंजीकरण (पंजीकरण प्रमाण-पत्र संख्या 1795/84) के निरस्त-करण को अधिसूचित करता है।

[सं. 16/97/85-एम.-3]

S.O. 3778.—In pursuance of Sub-section (3) of Section 26 of the Monopolies and Restrictive Trade Practices Act, 1969 (54 of 1969), the Central Government hereby notifies the cancellation of the registration of M/s. Utarkash Private Limited having its registered office at 2, Sunny Park, Calcutta-700019 under the said Act (Certificate of Registration No. 1795/84).

[No. 16/97/85-M III]

का. आ. 3779.—एकाधिकार तथा अवरोधक व्यापारिक व्यवहार अधिनियम 1969 (1969 का 54) के धारा 26 की उपधारा (3) के अनुसरण में केन्द्रीय सरकार एतद्वारा मैसर्स कनोर्बिया इन्टरनेशनल लिमिटेड, पंजीकृत कार्यालय 2, सुन्नी पार्क, कलकत्ता-700019 के कथित अधिनियम के अन्तर्गत पंजीकरण (पंजीकरण प्रमाण-पत्र संख्या 1791/84) के निरस्त-करण को अधिसूचित करता है।

[सं. 16/98/85-एम-3]

S.O. 3779.—In pursuance of Sub-section (3) of Section 26 of the Monopolies and Restrictive Trade Practices Act, 1969 (54 of 1969), the Central Government hereby notifies the cancellation of the registration of M/s. Kanoria International Limited having its registered office at 2, Sunny Park, Calcutta-700019 under the said Act (Certificate of Registration No. 1791/84).

[No. 16/98/85-M.III]

नई दिल्ली, 26 जुलाई, 1985

का. आ. 3780.—एकाधिकार तथा अवरोधक व्यापारिक व्यवहार अधिनियम, 1969 (1969 का 54) के धारा 26 की उपधारा (3) के अनुसरण में केन्द्रीय सरकार एतद्वारा मैसर्स आकान्छा प्राइवेट लिमिटेड पंजीकृत कार्यालय-2, सुन्नी पार्क, कलकत्ता-700019 के कथित अधिनियम के अन्तर्गत पंजीकरण (पंजीकरण प्रमाण-पत्र संख्या 1989/84) के निरस्त-करण को अधिसूचित करता है।

[सं. 16/99/85-एम 3]

New Delhi, the 26th July, 1985

S.O. 3780.—In pursuance of Sub-Section (3) of Section 26 of the Monopolies and Restrictive Trade Practices Act, 1969 (54 of 1969), the Central Government hereby notifies the cancellation of the registration of M/s. Aakanchha Private Limited having its registered office at 2, Sunny Park, Calcutta-700019 under the said Act (Certificate of Registration No. 1989/84).

[No. 16/99/85-M III]

का. आ. 3781.—एकाधिकार तथा अवरोधक व्यापारिक व्यवहार अधिनियम, 1969 (1969 का 54) के धारा 26 की उपधारा (3) के अनुसरण में केन्द्रीय सरकार एतद्वारा मैसर्स चंचल कार्मिशियल कम्पनी लिमिटेड, पंजीकृत कार्यालय 2, सुन्नी पार्क, कलकत्ता 700019 के कथित अधिनियम के अन्तर्गत पंजीकरण (पंजीकरण प्रमाण-पत्र संख्या 1985/84) के निरस्त-करण को अधिसूचित करता है।

[सं. 16/100/85-एम-3]

S.O. 3781.—In pursuance of Sub-Section (3) of Section 26 of the Monopolies and Restrictive Trade Practices Act, 1969 (54 of 1969), the Central Government hereby notifies the cancellation of the registration of M/s. Chanchal Commercial Company Ltd., having its registered office at 2, Sunny Park, Calcutta-700019 under the said Act (Certificate of Registration No. 1985/84).

[No. 16/100/85-M III]

का. धा. 3732.--एकाधिकार तथा अवरोधक व्यापारिक व्यवहार अधिनियम, 1969 (1969 का 54) की धारा 26 की उपधारा (3) के अनुसरण में केन्द्रिय सरकार एतद्वारा मैसर्स क्लोरोटेक्स लिमिटेड, पंजीकृत कार्यालय 16 ए. ब्राबोर्न रोड, कलकत्ता-700001 के कथित अधिनियम के अन्तर्गत पंजीकरण (पंजीकरण प्रमाण-पत्र संख्या 1818/84) के निरस्तकरण को अधिसूचित करता है।

[सं. 16/101/85-एम-3]

S.O. 3782.—In pursuance of Sub-Section (3) of Section 26 of the Monopolies and Restrictive Trade Practices Act, 1969 (54 of 1969), the Central Government hereby notifies the cancellation of the registration of M/s. Chlorotex Limited having its registered office at 16A, Brabourne Road, Calcutta-700001 under the said Act (Certificate of Registration No. 1818/84).

[No. 16/101/85-M III]

का. धा. 3783.--एकाधिकार तथा अवरोधक व्यापारिक व्यवहार अधिनियम, 1969 (1969 का 54) की धारा 26 की उपधारा (3) के अनुसरण में केन्द्रिय सरकार एतद्वारा मैसर्स रेनुकट पावर कम्पनी लिमिटेड पंजीकृत कार्यालय 16 ए. ब्राबोर्न रोड, कलकत्ता-700001 के कथित अधिनियम के अन्तर्गत पंजीकरण (पंजीकरण प्रमाण-पत्र संख्या 1816/84) के निरस्तकरण को अधिसूचित करता है।

[सं. 16/102/85-एम-3]

S.O. 3783.—In pursuance of Sub-Section (3) of Section 26 of the Monopolies and Restrictive Trade Practices Act, 1969 (54 of 1969), the Central Government hereby notifies the cancellation of the registration of M/s. Renuoot Power Company Ltd., having its registered office at 16, A Brabourne Road, Calcutta-700001 under the said Act (Certificate of Registration No. 1816/84).

[No. 16/102/85-M III]

का. धा. 3784.--एकाधिकार तथा अवरोधक व्यापारिक व्यवहार अधिनियम, 1969 (1969 का 54) की धारा 26 की उपधारा (3) के अनुसरण में केन्द्रिय सरकार एतद्वारा मैसर्स कनोडिया केमिकल्स एण्ड इन्डस्ट्रीज लिमिटेड, पंजीकृत कार्यालय 16 ए. ब्राबोर्न रोड, कलकत्ता 1 के कथित अधिनियम के अन्तर्गत पंजीकरण (पंजीकरण प्रमाण-पत्र संख्या 1622/83) के निरस्तकरण को अधिसूचित करता है।

[सं. 16/103/85-एम-3]

S.O. 3784.—In pursuance of Sub-Section (3) of Section 26 of the Monopolies and Restrictive Trade Practices Act, 1969 (54 of 1969), the Central Government hereby notifies the cancellation of the registration of M/s. Kanoria Chemicals and Industries Limited having its registered office at 16 A, Brabourne Road, Calcutta-1, under the said Act (Certificate of Registration No. 1622/83).

[No. 16/103/85-M.III]

का. धा. 3785.--एकाधिकार तथा अवरोधक व्यापारिक व्यवहार अधिनियम, 1969 (1969 का 54) की धारा 26 की उपधारा (3) के अनुसरण में केन्द्रिय सरकार एतद्वारा मैसर्स ज्योति इन्वेस्टमेंट्स लिमिटेड पंजीकृत कार्यालय 2 सुन्नी पार्क, कलकत्ता-700019 के कथित

अधिनियम के अन्तर्गत पंजीकरण (पंजीकरण प्रमाण-पत्र संख्या 1994/84) के निरस्तकरण को अधिसूचित करता है।

[सं. 16/104/85-एम-3]

S.O. 3785.—In pursuance of Sub-Section (3) of Section 26 of the Monopolies and Restrictive Trade Practices Act, 1969 (54 of 1969), the Central Government hereby notifies the cancellation of the registration of M/s. Jyoti Investments Limited having its registered office at 2, Sunny Park, Calcutta-700019 under the said Act (Certificate of Registration No. 1994/84).

[No. 16/104/85-M III]

का. धा. 3786.--एकाधिकार तथा अवरोधक व्यापारिक व्यवहार अधिनियम, 1969 (1969 का 54) की धारा 26 की उपधारा (3) के अनुसरण में केन्द्रिय सरकार एतद्वारा मैसर्स पतंजलि इन्वेस्टमेंट्स लिमिटेड, पंजीकृत कार्यालय 2, सुन्नी पार्क, कलकत्ता-700019 के कथित अधिनियम के अन्तर्गत पंजीकरण (पंजीकरण प्रमाण-पत्र संख्या 1824/84) के निरस्तकरण को अधिसूचित करता है।

[सं. 16/105/85-एम-3]

S.O. 3786.—In pursuance of Sub-Section (3) of Section 26 of the Monopolies and Restrictive Trade Practices Act, 1969 (54 of 1969), the Central Government hereby notifies the cancellation of the registration of M/s. Patanjali Investments Limited having its registered office at 2, Sunny Park, Calcutta-700019 under the said Act (Certificate of Registration No. 1824/84).

[No. 16/105/85-M III]

का. धा. 3787.--एकाधिकार तथा अवरोधक व्यापारिक व्यवहार अधिनियम, 1969 (1969 का 54) की धारा 26 की उपधारा (3) के अनुसरण में केन्द्रिय सरकार एतद्वारा मैसर्स पिपरी लिमिटेड, पंजीकृत कार्यालय 16 ए. ब्राबोर्न रोड, कलकत्ता-700001 के कथित अधिनियम के अन्तर्गत पंजीकरण (पंजीकरण प्रमाण-पत्र संख्या 1986/84) के निरस्तकरण को अधिसूचित करता है।

[सं. 16/106/85-एम-3]

S.O. 3787.—In pursuance of Sub-Section (3) of Section 26 of the Monopolies and Restrictive Trade Practices Act, 1969 (54 of 1969), the Central Government hereby notifies the cancellation of the registration of M/s. Pipri Limited having its registered office at 16 A, Brabourne Road, Calcutta-700001 under the said Act (Certificate of Registration No. 1986/84).

[No. 16/106/85-M III]

का. धा. 3788.--एकाधिकार तथा अवरोधक व्यापारिक व्यवहार अधिनियम, 1969 (1969 का 54) की धारा 26 की उपधारा (3) के अनुसरण में केन्द्रिय सरकार एतद्वारा मैसर्स भावना ट्रेडर्स एण्ड डीलर्स लिमिटेड, पंजीकृत कार्यालय 2, सुन्नी पार्क, कलकत्ता-700019 के कथित अधिनियम के अन्तर्गत पंजीकरण (पंजीकरण प्रमाण-पत्र संख्या 1992/84) के निरस्तकरण को अधिसूचित करता है।

[सं. 16/107/85-एम-3]

S.O. 3788.—In pursuance of Sub-Section (3) of Section 26 of the Monopolies and Restrictive Trade Practices Act, 1969 (54 of 1969), the Central Government hereby notifies the cancellation of the registration of M/s. Bhawna Traders and Dealers Limited, having

its registered office at 2, Sunny Park, Calcutta-700019 under the said Act (Certificate of Registration No. 1793|84).

[No. 16|107|85-M III]

का. आ. 3789--एकाधिकार तथा अवरोधक व्यापारिक व्यवहार अधिनियम, 1969 (1969 का 54) की धारा 26 की उपधारा (3) के अनुसरण में केन्द्रीय सरकार एतद्वारा मसर्स एकता लिमिटेड, पंजीकृत कार्यालय 16 ए, ब्राबोर्न रोड, कलकत्ता-1 के कथित अधिनियम के अन्तर्गत पंजीकरण (पंजीकरण प्रमाण-पत्र संख्या 1790/84) के निरस्तीकरण की अधिसूचित करती है।

[मं. 16/108/85-एम-3]
वेद प्रकाश गुप्ता, निर्देशक

S.O. 3789.—In pursuance of Sub-Section (3) of Section 26 of the Monopolies and Restrictive Trade Practices Act, 1969 (54 of 1969), the Central Government hereby notifies the cancellation of the registration of M/s. Aekta Limited having its registered office at 16 A, Barabourne Road, Calcutta-1 under the said Act (Certificate of Registration No. 1790|84).

[No. 16|108|85-M III]
V. P. GUPTA, Director

MINISTRY OF STEEL MINES AND COAL

(Department of Coal)

New Delhi, the 25th July, 1985

CORRIGENDUM

S.O. 3790.—Whereas, by the notification of the Government of India in the late Ministry of Energy (Department of Coal), No. S.O. 834(E) dated the 13th November, 1984, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii) dated the 13th November, 1984 issued under sub-section (1) of section 7 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), the Central Government gave notice of its intention to acquire the lands described in the Schedule appended to that notification;

And whereas, it has been brought to the notice of the Central Government that certain errors of printing nature have occurred in the publication of the said notification;

Now, therefore, in exercise of the powers conferred by Sub-section (1) of section 7 of the said Act the Central Government hereby makes the following amendments in the said notification, namely:—

- (1) In Schedule B and C to the said notification, for "ALL RIGHTS" read "mining rights"
- (2) in Schedule C, in Mouza Engarkunr,—
 - (i) for "60,348" and "742 to 750" read "60 to 348" and "742 to 755" respectively;
 - (ii) for "1721 to 1743 (Part)" read "1721 to 1742, 1743(Part)",
 - (iii) for "1870 to 1879 (Part)", read "1870 to 1978, 1979(Part)",
 - (iv) for "1884 to 1997" read "1884 to 1943" and "1947 to 1997"

Any person interested in any land in respect of the above amendments may, within thirty days from the date of publication of this notification in the Official Gazette, file his objection to the acquisition of the whole or any part of

the said land, or any rights in any of such land in terms of sub-section (1) of section 8 of the said Act.

[F. No. 43019|35|84-CA]

T.C.A. SRINAVASAN, Director

रसायन और उर्वरक मंत्रालय

नई दिल्ली, 24 जून, 1985

का. आ. 3791—सरकारी स्थान (अप्राधिकृत अधिकारियों की वेबजली) अधिनियम, 1971 (1971 का 40) की धारा 3 द्वारा प्रस्तुत शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा भारत सरकार के रसायन और उर्वरक मंत्रालय की अधिसूचना संख्या का. आ. 2602 तारीख 5 जून, 1976 में निम्नलिखित संशोधन करती है, अर्थात्:—

उक्त अधिसूचना में विद्यमान माग्नी के स्थान पर निम्नलिखित माग्नी प्रतिस्थापित की जायेगी, अर्थात्:—

माग्नी

अधिकारी का पदनाम

सरकारी स्थानों के प्रवेश और अधिकारिता की स्थानीय सीमाएं

(1)

(2)

हरिष्ठ प्रशामनिक अधिकारी बरौनी कारखाना और उसके उपनगर हिन्दुस्तान फर्टिलाइजर कॉर्पोरेशन के लिए एचएफसी लि. की भूमि लि., बरौनी एकक, बरौनी, अथवा उनके द्वारा या उसकी उर्वरक नगर और से पट्ट पर लिया गया स्थान।

[फा. सं. 88/1/85-एफ डी सी]

अकील अहमद, डेस्क अधिकारी

MINISTRY OF CHEMICALS & FERTILIZERS

New Delhi, the 24th June, 1985

S.O. 3791.—In exercise of the powers conferred by section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (40 of 1971), the Central Government hereby makes the following amendments in the notification of the Government of India in the Ministry of Chemicals and Fertilizers No. S.O. 2602, dated the 5th June, 1976, namely:—

In the said notification, for the existing Table, the following Table shall be substituted, namely:—

TABLE

Designation of the officer	Categories of Public Premises and local limits of jurisdiction
1	2
Senior Administrative Officer, Hindustan Fertilizer Corporation Ltd., Barauni Unit, Barauni, Urvarak Nagar.	Premises belonging to, or taken on lease by or on behalf of, H.F.C. Ltd., for the Barauni Factory and its town ship."

[F. No. 88/1/85-FDC]
AQLEL AHMAD, Desk Officer

निर्माण और आवास मंत्रालय**मद्रण निर्देशालय**

नई दिल्ली, 25 जुलाई, 1985

का. मा. 3792--भारत सरकार, मद्रणालय, नासिक, कोयम्बूर, कोराट्ट, कोल्लार, नीलाखेड़ी, संजगाछी (हावड़ा), मिनटो रोड, नई दिल्ली, रिंग रोड, नई दिल्ली, फरिदाबाद, गान्धोक के कर्मचारियों को सरकारों आवासों के आवंटन नियम, 1972 (जिन्हें विनं. 25-1-80 को अधिसूचना सं. एच. ओ. 772 के अन्तर्गत भारत सरकार वाटर पुम्पक मद्रणालय, मैसूर भुवनेश्वर, चण्डीगढ़ पर भी लागू किया गया), के नियम 2(क) द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए, मद्रण निर्देशक यह अधिसूचना करते हैं कि प्रेस पूल के क्वार्टरों के आवंटन के लिए जालू आवंटन वर्ष का अधिविध 1-1-1985 से 31-3-1987 तक रहेगा।

[सं. 52/11/85-प्रशा. II]

एच. आर. ग्रोवर, डी निर्देशक, (प्रशा.)

DIRECTORATE OF PRINTING

New Delhi, the 25th July, 1985

S.O. 3792.—In exercise of the powers conferred under Rule 2(b) of the Allotment of Government residences to Officers employed in Government of India Press located at Nasik, Coimbatore, Koratty, Aligarh, Nilokheri, Santragachi (Howrah), Minto Road, New Delhi, Ring Road, New Delhi, Faridabad, Gangtok Rules, 1972 as extended to Government of India Text Book Press at Mysore, Bhubaneswar and Chandigarh vide Notification S.O. 772 dated 25-1-80, the Director of Printing is pleased to notify that the current allotment year for the purpose of allotment of Press Pool quarters will be as 1-1-85 to 31-3-87.

[No. 52/11/85-AH]

H. R. GROVER, Dy Director (Admn.)

(निर्माण प्रभाग)

नई दिल्ली, 25 जून, 1985

का. मा. 3791.—केन्द्रीय सरकार, राजघाट समाधि अधिनियम, 1951 (1951 का 41) के धारा 1 के उपधारा (1) और (2) के साथ पठित धारा 3 द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए, और भारत सरकार के निर्माण और आवास मंत्रालय की अधिसूचना सं. 25012/3/72-उत्पू-3, तारीख 24 दिसम्बर 1977 को अधिष्ठात करते हुए, राजघाट समाधि समिति का पुनर्गठन करते हैं जिसमें निम्नलिखित सदस्य होंगे, अर्थात्:—

- | | |
|---|---|
| 1. महानगर, दिल्ली नगर निगम | पदेन |
| 2. मुख्य सचिव, दिल्ली प्रशासन | } केन्द्रीय सरकार द्वारा नाम निर्देशित अधिकारी |
| 3. संयुक्त सचिव (निर्माण) निर्माण और आवास मंत्रालय | |
| 4. संयुक्त सचिव (खिल) निर्माण और आवास मंत्रालय | |
| 5. अध्यक्ष, गार्ड स्मारक निधि | } केन्द्रीय सरकार द्वारा नाम निर्देशित गैर-सरकारी व्यक्ति |
| 6. श्री सदान लाल गंगाराम, 3/125 नई दिल्ली नगर पालिका आवास कॉम्प्लेक्स, मन्दिर मार्ग, नई दिल्ली। | |
| 7. श्री मशरू सत्या चौधरी, एन-44 की नि. नगर, नई दिल्ली-110015 | |
| 8. श्री जय प्रकाश अधिवान, संसद सदस्य | } लोक सभा सदस्यों द्वारा निर्वाचित |
| 9. श्री विरेंद्र जैन, राजसदस्य | |
| 10. श्री धनराज सिंह, संसद सदस्य | राज्य सभा के सदस्यों द्वारा |

567 GI/85-3

(2) केन्द्रीय सरकार श्री कामलपति त्रिपाठी, संसद सदस्य को राजघाट समाधि समिति का अध्यक्ष नियुक्त करती है और उन्हें समिति का सदस्य नामना रहे।

(फा. सं. 25011/7/85-उत्पू-3)

विनोद लाल, निर्देशक (निर्माण)

MINISTRY OF WORKS & HOUSING

(Works Division)

New Delhi, the 25th June, 1985

S.O. 3793.—In exercise of the powers conferred by section 3 read with sub-sections (1) and (2) of section 4 of the Rajghat Samadhi Act, 1951 (41 of 1951) and in supersession of the notification of the Government of India in the Ministry of Works and Housing, No. 25012/3/72-W3, dated the 24th December, 1977 the Central Government hereby re-constitutes the Rajghat Samadhi Committee consisting of the following members namely:—

- | | |
|---|--|
| 1. Mayor of the Municipal Corporation of Delhi. | Ex-Officio |
| 2. Chief Secretary of the Delhi Administration. | } Officials nominated by the Central Government |
| 3. Joint Secretary (Works) Ministry of Works and Housing. | |
| 4. Joint Secretary (Finance), Ministry of Works and Housing. | |
| 5. Chairman, Gandhi Smarak Nidhi. | |
| 6. Shri Madan Lal Gangahery, 3/125, NDMC Housing Complex, Mandir Marg, New Delhi. | } Non-officials nominated by the Central Government. |
| 7. Smt. Satya Choudhary N-44, Kirti Nagar, New Delhi-110015. | |
| 8. Shri Jai Parkash Agarwal, M.P. | |
| 9. Shri Chiranjy Lal Sharma, M.P. | } Elected by Members of the Lok Sabha. |
| 10. Shri Kushwani Singh, M.P. | |
| | Elected by Members of the Rajya Sabha |

2. The Central Government appoints Shri Kamalapati Tripathi M.P. as the Chairman of the Rajghat Samadhi Committee and he shall be deemed to be a member of the Committee.

[File No. 25011/7/85-W3]

VINOD LALL, Director (Works)

पर्यटन और नागर विमानन मंत्रालय

नई दिल्ली, 23 जून ई. 1985

का. आ. 3794—सार्वजनिक पर्यटन (अप्राधिकृत दस्तावेजों का निष्कासन) अधिनियम, 1971 (1971 का 40) के धारा 17 द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एन.डी.ए. निर्देश देती है कि इसके अधिनियम के अन्तर्गत शक्तियों का प्रयोग करने की गई अधिसूचना के कालम (1) में दिए गए महाराष्ट्र सरकार के एने राजपत्रित अधिकांशों द्वारा भी प्रयोग किया जा सके जो उस अधिनियम के कालम (2) में विहित प्रक्रियाओं के सम्बन्ध में स्थानों में माओ में अपने अपने कार्यक्षेत्रों में उक्त अधिनियम द्वारा अधिसूचित सदस्य अधिकारों को दी गई ह्यूट का पूरा करने के लिए प्रयोग की जाएगी।

मजिफा	
अधिकारी का पद नाम	सार्वजनिक परिसर की श्रेणियाँ और कार्य क्षेत्र की स्थानीय सीमाएँ
(1)	(2)
1. उप समाहर्ता (अतिचार.) कुर्ला-II-बम्बई	तलुका अन्धेरी के स्थित बार्ड एच. ई. और तलुका अन्धेरी और कुर्ला
2. उप समाहर्ता (अतिचार.) कुर्ला-III-बम्बई	स्थित बार्ड में ई में केन्द्रीय सरकार की भूमि पर स्थित हटमेंट्स

[संख्या ए. बी.-24023/2/84-ग. ए. (एफ-II)]

एस. सी. कोहली, वित्त नियंत्रक

MINISTRY OF TOURISM AND CIVIL AVIATION

New Delhi, the 23rd July, 1985

S.O. 3791.—In exercise of the powers conferred by section 17 of the Public Premises (Eviction of Unauthorised Occupants) Act 1971 (40 of 1971), the Central Government hereby directs that the powers exercisable by it under the aforesaid Act shall also be exercisable by the officers of the Government of Maharashtra mentioned in column (1) of the Table below being gazetted officers of the Government who shall exercise the powers conferred and perform the duties imposed on estate officers by or under the said Act within the local limits of their respective jurisdiction in respect of the public premises specified in the entries of the column (2) of the said Table.

The Table

Designation of officers	Categories of public premises and local limits of jurisdiction
1	2
1. Deputy Collector (Encroachments) Kurla II, Bombay.	Hutments situated on land belonging to Central Government in Ward HE at Taluka
2. Deputy Collector (Encroachments) Kurla III, Bombay.	Andheri and Ward KE at Taluka Andheri and Kurla.

[AV. 24023/2/84-AA(F. II)]

S. C. KOHLI, Financial Controller

नौवहन और परिवहन मंत्रालय

(हिन्दी अनुभाग)

नई दिल्ली, 29 जुलाई, 1985

क्र. डा. 1795.—भारत सरकार पोर्ट ब्लेयर स्थित दोब और वीपवेल निवेश के कार्यालय को जहाँ 80 प्रतिशत कर्मचारियों ने हिन्दी का कामकाज जान प्राप्त कर लिया है और जो इस मंत्रालय के प्रशासनिक नियंत्रण में है, राजभाषा संघ के सरकारी उद्देश्य के लिए प्रयोग नियमावली, 1976 के नियम 10 के उप नियम (4) के तहत अधिसूचित करती है।

[संख्या एष. पी.यू. /117/85]

देवराज बंसल, उप सचिव,

MINISTRY OF SHIPPING AND TRANSPORT

(Hindi Section)

New Delhi, the 29th July, 1985

S.O. 3795.—In pursuance of Sub-rule (4) of Rule 10 of the Official Language (use for the official pur-

poses of the Union) Rules, 1976 the Government of India hereby notifies the office of the Director of Lighthouses and Lightships, Port Blair under the administrative control of the Ministry of Shipping and Transport where 80 per cent of staff have acquired working knowledge in Hindi.

[No. HPU/147/85]

D. R. BANSAL, Dy. Secy.

दूरसंचार विभाग

(दूर संचार बोर्ड)

नई दिल्ली, 12 जुलाई, 1985

क्र. डा. 3796.—जबकि पिम्परी-चिंचवाड टेलीफोन एक्सचेंज प्रणाली के स्थानीय क्षेत्र को बढ़लने के संघ में जैसा कि भारतिय तार नियमावली, 1951 के नियम 434(iii) (2 सी) द्वारा प्रापेक्षित है एक सार्वजनिक सूचना पिम्परी-चिंचवाड में वितरित समाचार पत्रों में प्रकाशित की गई थी जिसके अन्तर्गत समाचार पत्रों में सूचना के प्रकाशन की तारीख से 30 दिन के भीतर उससे प्रभावित होने वाले संभावित सभी व्यक्तियों से हम संबंध में उनका आपत्तियाँ एवं सुझाव आमंत्रित किए गए थे ;

और जबकि यह उक्त सूचना 10-1-85 को 'प्राज्ञ का प्रानन्द' समाचार पत्र में तथा 11-1-85 को 'केशव' तथा सकल 'समाचार पत्रों में प्रकाशनाथ उपलब्ध कराया गया था।

तथा चूंकि उक्त सूचना के संघ में जनता से कोई आपत्तियाँ व सुझाव प्राप्त नहीं हुई हैं ;

अतः अब महानिदेशक (दूरसंचार), उक्त नियमावली के नियम 434 (III) (2 सी) द्वारा प्रवृत्त शक्ति का प्रयोग करते हुए एतद्वारा घोषणा करते हैं कि 1-8-1985 पिम्परी-चिंचवाड का संशोधित स्थानीय क्षेत्र निम्न प्रकार होगा ;

पिम्परी-चिंचवाड टेलीफोन एक्सचेंज प्रणाली

जैसा कि महाराष्ट्र सरकार के तारिख 6-10-82 के राजपत्र अधिसूचना सं. पी. ए. सं. 10821210(i) य. इ. 20 के तहत अधिसूचना किया गया है पिम्परी-चिंचवाड म्युनिसिपल कॉर्पोरेशन के क्षेत्राधिकार के अन्तर्गत पड़ेने वाला क्षेत्र पिम्परी-चिंचवाड के स्थानीय क्षेत्र के अन्तर्गत आएगा।

बशर्ते कि पिम्परी-चिंचवाड म्युनिसिपल कॉर्पोरेशन संसाधनों से बाहर अवस्थित टेलीफोन उपभोक्ता जिनके कि टेलीफोन पिम्परी-चिंचवाड टेलीफोन एक्सचेंज प्रणाली के अन्तर्गत आते हैं और जब तक वे इस प्रणाली को किस एक्सचेंज के 5 कि. मं. के अन्तर अवस्थित हैं और इससे जुड़े रहेंगे स्थानीय श्रुकों का भुगतान बंद रहेंगे।

[सं. 3-18/84-पीएचबी]

प्रदीप कुमार निवेशक (पी एच बी)

DEPARTMENT OF TELECOMMUNICATIONS

(Telecom Board)

New Delhi, the 12th July, 1985

S.O. 3796.—Whereas a public notice for revising the local area of Pimpri-Chinchwad Telephone Exchange System was published as required by rule 434 (III)(2c) of the Indian Telegraph Rules, 1951 in the Newspapers in circulation at Pimpri Chinchwad inviting objections and suggestions from all persons likely to be affected thereby, within a period of 30 days from the date of publication of the notice in the Newspapers;

And whereas the said notice was made available to the public on 10-1-85 in 'Aaj Ka Anand' and on 11-1-85 in 'Kesari' and 'Sakal' newspapers;

And whereas no objections and suggestions have been received from the public on the said notice;

Now, therefore, in exercise of the power conferred by rule 434 (III)(2c) of the said Rules, the Director General (Telecommunications) hereby declares that with effect from 1-8-1985 the revised local area of Pimpri Chinchwad shall be as under;

Pimpri-Chinchwad Telephone Exchange System.

The local area of Pimpri-Chinchwad shall cover an area falling under the jurisdiction of Pimpri-Chinchwad Municipal Corporation as notified vide Government of Maharashtra Gazette Notification No. PCC 1082/210(i)/UD-20 dated 6-10-82.

Provided that the telephone subscribers located outside the Pimpri Chinchwad Municipal Corporation limits but who are served from Pimpri-Chinchwad Telephone Exchange system shall continue to pay local tariffs as long as they are located within 5 kms of any exchange of this system and remain connected to it.

[No. 3-18/84-PHB]

PRADEEP KUMAR, Director (PHE)

रेल मंत्रालय

(रेलवे बोर्ड)

नई दिल्ली, 23 जुलाई, 1985

का. अ. 3797-—केन्द्रीय सरकार भारतीय रेल अधिनियम, 1890 (1890 का अधिनियम IX) की धारा 82 बी द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, 13-6-1985 को मध्य रेलवे पर हुई 138 अप। छत्तीसगढ़ एक्सप्रेस और डाउन टी के डी माय गाड़ी के बीच टक्कर से उत्पन्न सभी दावों का निपटान करने के लिए एतद्वारा श्री पी. सी. सक्सेना, सेवा-निवृत्त जज मथुरा को तदर्थ दावा आयुक्त के रूप में नियुक्त करती है।

[स. 85/ई(ओ) II/1/5]

MINISTRY OF RAILWAYS

(Railway Board)

New Delhi, the 23rd July, 1985

S.O. 3797.—In exercise of the powers conferred by Section 82 B of the Indian Railways Act, 1890 (Act IX of 1890), the Central Government hereby appoints Shri P.C. Saxena, retired judge Mathura as Adhoc Claims Commissioner to deal with all the Claims arising out of collision between 138 UP Chhattisgarh Express and Down TKD Goods train on Central Railways on 13-6-1985.

[No. 85/E(O)II/1/5]

नई दिल्ली, 24 जुलाई, 1985

का.अ. 3798-— रेल मंत्रालय क 30-4-1985 का अधिसूचना सं. 85/ई(ओ) 11/1/1 को निरस्त करने हुए, केन्द्रीय सरकार भारतीय रेल अधिनियम 1890 (1890 का अधिनियम IX) की धारा 82 बी द्वारा प्रदत्त शक्तियों का उपयोग करते हुए 6-6-1981 को पूर्वोक्त रेलवे पर वागमन तदर्थ पर हुई 416 डाउन पैसंजर गाड़ी का दुर्घटना से उत्पन्न सभी दावों का निपटान करने के लिए एतद्वारा श्री वा. एन.

मिश्र सेवानिवृत्त जज को अपर तदर्थ दावा आयुक्त के रूप में नियुक्त करती है। उनका मुख्यालय सहारसा होगा।

[सं. 85/ई(ओ) II/1/4]

ए. एन. वांगू सचिव, रेलवे बोर्ड एवं

भारत सरकार के परितः संयुक्त सचिव

New Delhi, the 24th July, 1985

S.O. 3798.—In cancellation of the Ministry of Railways' Notification No. 85/E(O)II/1/4 dated 30-4-1985 the Central Government, in exercise of the powers conferred by Section 82 B of the Indian Railways Act, 1890 (Act IX of 1890), hereby appoints Shri V.N. Misra retired Judge as Additional Adhoc Claims Commissioner to deal with all the claims arising out of the accident to 416 DN Passenger train on Bagmati River on North Eastern Railway on 6-6-1981. His Headquarters will be at Saharsa.

[No. 85/E(O)II/1/4]

A.N. WANCHOO, Secretary, Railway Board & ex-officio Joint Secretary to the Government of India.

श्रम मंत्रालय

नई दिल्ली, 18 जुलाई 1985

का. अ. 3799-—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, सेन्ट्रल बैंक आफ इंडिया के प्रबंधक से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-7-85 को प्राप्त हुआ था।

MINISTRY OF LABOUR

New Delhi, the 18th July, 1985

S.O. 3799.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur, as shown in the Annexure in the industrial dispute between the employers in relation to the Union Bank of India and their workmen, which was received by the Central Government on the 12th July, 1985.

BEFORE SHRI R. B. SRIVASTAVA PRESIDING OFFICER
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL

KANPUR

Industrial Dispute No. 179/1983

In the matter of dispute between : Shri Abdul Ahod, r/o Jamunia Railway Station, District Gihazipur-232331.

AND

The Assistant General Manager, Union Bank of India, Hotel Clark Awadh, 8 MG Marg, Lucknow.

PRESENT:

Shri Satya Pal representative.—for the management.

Shri V. N. Sekhari representative.—for the workman.

AWARD

1. The Central Government, Ministry of Labour, vide its notification No. L-12012/134/82.D-II.A dated 11-4-83 has referred the following dispute for adjudication:

Whether the action of the management of Union Bank of India in relation to their Zamania Branch, Dist. Ghazipur, in not giving opportunity of re-employment to Shri Abdul Ahad, temporary Peon whose services were terminated by the bank on 4-11-78 is justified? If not to what relief the workman concerned is entitled?

2. It is common ground that the workman Abdul Ahad entered in the service of the management bank on 2-9-76 and worked there upto 4-11-78 with breaks and in this way the total number of working days during span of 76 to 78 were 23 days. According to the allegations of the workman no letter of appointment, no termination letter, no notice pay or notice and no retrenchment compensation was given to the workman.

3. According to the management the workman was appointed temporarily. In the written statement or in the rejoinder it is not pleaded that the workman was empanelled, his name having been sponsored by the employment exchange on the basis of interview held on 6-6-78. An objection was raised by the management during the course of argument that this part of the evidence should not have been allowed as the management was taken by surprise and had no opportunity to rebut the same. Moreover, it appears to be wrong as the workman stated in cross examination that he came to know in June 1978 that his name was recommended for employment when his name was registered in 1979 in the employment exchange.

4. Even if it be so empanelment will not create any right in favour of the workman as was held in M.M. Siddique Versus Union of India (I) S.R. page 229 wherein it was held:

The mere circumstances that the appellant was put on a penal for promotion does not mean that he would have been automatically promoted to the higher post. Being empanelled the limited confers upon the persons concerned the limited right of being considered for promotion which is another way of saying that persons who are put on the penal framed for promotion to a higher post are at the given moment considered eligible for promotion. Events subsequent to the formation of the penal may render any person, who is included in the penal unfit for promotion which is what has happened in the instant case.

In the case of Shanker Versus Britannia Biscuit Company 1979 Lab I C 1192 page 1205 it was observed as follows:

A contention to substantiate which evidence is necessary has to be pleaded. If there is no pleading raising a contention there is no question of substantiating such non-existing contention by evidence. It is well settled that allegation which is not pleaded, even if there is evidence in support of it can not be examined because the other side has no notice of it and it entertained it would tantamount to granting an unfair advantage to the first mentioned party. We are not unmindful of the fact that the pleadings before such bodies have not to be read strictly but it is equally true that the pleadings must be such as to give sufficient notice to the other party of the case it is called upon to meet.

5. Para 20.7 of the bipartite settlement 1966 defines temporary employees and according to it a temporary employee will mean a workman who has been appointed for a limited period for work which is of essentially temporary in nature

or who is employed temporary as an additional workman in connection with temporary increase in work of a permanent nature and includes workman who is appointed in a temporary vacancy caused by persons of a purely permanent vacancy.

6. Para 20.8 of the said settlement lays down A temporary workman may also be appointed to fill a permanent vacancy provided that such temporary employment shall not exceed a period of three months during which the bank shall make arrangement to fill the vacancy permanently. If such a temporary workman is eventually selected for filling up vacancy, the period of such temporary employment will be taken into account as part of probationary period.

7. The management did not examine any person who had worked at Jamania Branch during that period who had personal knowledge of working there and the number of persons employed. Shri S. L. Verma, MW-1 stated that he was not able to tell the staff strength at Jamania Branch. He has admitted that the workman was paid wages as per bipartite settlement. He has however, admitted that he was doing all duties of substaff, peon thus it can not be said that he was appointed for a limited period of work essentially of temporary nature or for temporary increase in work of permanent nature. He has however admitted that subsequent to the termination of the workman several sub staff have been appointed in the bank by regular process of recruitment against the permanent vacancy. He has further admitted that several new branches were opened after the termination of the workman.

8. In the instant case it is admitted that the workman was doing all duties of substaff as peon, thus his position was that of a temporary workman and not workman employed essentially for work of occasional or casual nature. As after the termination of the workman a large number of substaff were appointed on permanent post. Thus it is clear that permanent nature of work of peon was there in the bank on which the workman was working. Under para 20.8 the management should after completing of three months considered the workman for filling up the vacancies. Thus it is clear that fresh hands were recruited after the termination of the workman and junior hands were allowed to continue in the service of the bank as averred in para 10 in the affidavit of the workman.

9. The management did not maintained a list of temporary employees in view of para 507 of the Sastri Award. So at the time of the termination the workman the principal last come first go can be observed. Similar provisions in para 493 and 495 of the award were not observed and no appointment letter was issued to the workman. No service book was maintained as required vide para 516 of the Sastri Award and no termination notice was given to the workman as required under para 522 of the Sastri Award. In 1968 II L.L.J Jammu & Kashmir it was held that no written order of termination is illegal.

10. In the case of British India Corporation Vs. Labour Court 1978 LAB Industrial Cases/page 230 (Ald) it was held.

Retrenchment of chowkidar-reorganisation of business—appointment of new chowkidars—without offering opportunity to retrenched the workman for re-employment—held that employer contravened mandatory requirement of section 60 of U.P.I.D. Act (Sec. 25H of I. D. Act) retrenchment not bona fide—workman entitled to reinstatement.

11. In National Iron & Steel Company Limited Vs. State of West Bengal & another 1967 II L.L.J 23 S.C. at page 30 it was observed:

Incidentally it may also be pointed out that the retrenchment of Sushil does not seem to be otherwise justified in that following the principal of Last come First go. Sushil could not be called upon to leave the company's service. Another employee by name of Joy Kishan Junior to Sushil was retained in service.

12. It was further argued that the management being public sector indicating no reasons have been given for his termination when there is other appointment on permanent basis and actually new branches were opened. In the case of Raghunandan Prasad Versus Institute of Physically Handicapped, 1985 page 148 Supreme Court, wherein it was held :

before his dismissal became effective he ought to have been given an opportunity of making a written representation or being heard by the authority. If he asks for this opportunity and it is refused the order of dismissal is null and void.

13. In the instant case no notice of termination or termination letter given. It was held in the above ruling that :

A public authority can not hire and fire a man without following the procedures to be observed. It can act within the restraints imposed upon it.

14. In public employment it is now well recognised that the principal of natural justice must be observed.

15. It was further held that if a workman hold a post in public sector he is protected by articles 14, 16 and 21 of the Indian Constitution.

16. In the case of Gaffar Versus Union of India 1984 LAB I.C. page 645 wherein it was held :

Rule 77 of the Industrial Dispute Act requiring maintenance seniority list of workmen has been included in the rules so that the object of sec. 25C of the I.D. Act may be effectively achieved. The minimum time of seven days allowed for this purpose is not unnecessarily long for the workman should get an opportunity to scrutinise correctness of the seniority list before he is thrown out. Viewed from this angle it should be held that the requirement mentioned in rule 77 is mandatory and its violation renders an order of retrenchment illegal.

17. Thus in view of the matters and in view of the discussions above, the termination of the workman having been brought about without termination letter notice and notice pay and not following the principal last come first go, the retrenchment is illegal.

18. The result is that the workman will be reinstated with full back wages.

19. I, therefore, give my award accordingly.

Di. 27th June, 1985.

R. B. SRIVASTAVA, Presiding Officer

[No. L-12012/134-82-D.II(A)]

का.अ. 3800—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) के धारा 17 के अनुसरण में केन्द्र सरकार, बैंक ऑफ़ इंडिया के प्रबंधन से सम्बद्ध नियोजकों और उनके कार्यों के बीच अनुबंध में निहित औद्योगिक विवाद में औद्योगिक अधिकरण, जयपुर के पंचाट को प्रकाशित करत है, जो केन्द्र सरकार को 12-6-85 को प्राप्त हुआ था।

[एन-12012/257/83-ई. 2(ए)]

S.O. 3800.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jaipur as shown in the Annexure in the industrial dispute between the employees in relation to the Bank of Baroda and their workmen, which was received by the Central Government on the 12th July, 1983.

CENTRAL INDUSTRIAL TRIBUNAL, RAJASTHAN,

JAIPUR

Case No. C.I.T. 31/84

Reference :

Desk Officer, Government of India, Ministry of Labour and Rehabilitation Department of Labour, New Delhi. Order No. L-12012/257/83-D.II(A) dated 7th Feb., 1984.

In the matter of an Industrial Dispute

BETWEEN

The General Secretary, The Bank of Baroda Karamachari Union, C/o Bank of Baroda, M.I. Road Jaipur, —Applicant

AND

The Regional Manager, Bank of Baroda, Jaipur Region, Zonal Office, D-35A, Ashok Marg, C-Scheme, Jaipur.

PRESENT :

Smt. Mohini Kapur, R. H. J. S.
For the Applicant—Shri Ashoke Parihar.
For the Opposite Party :—Shri C. M. Mathur.
Date of Award :—22-4-85.

AWARD

The Central Government has referred the following dispute for adjudication.

"Whether the action of the management of Bank of Baroda, Jaipur in relation to their Shahar Branch, Distt. Sawaimadhopur in terminating the services of Shri N. I. Bairwa substaff with effect from 23-6-81 is justified? If not, to what relief is the workmen concerned entitled?"

2. According to the statement of claim the workman Narain Lal Bairwa was first appointed as a Farrash-peon by the opposite party. Bank of Baroda, Sahar Branch of Distt. Sawai Madhopur on 10-12-80 and joined his duties on 24-12-80. His salary was Rs. 245 per month plus allowances admissible to the staff. The appointment was on probation for a period of six months which could be extended by the Bank at its discretion. After the expiry of the period of probation if his work and conduct was found satisfactory he would be continued in the service of Bank. The applicant worked till 23-6-81 and on that date his services were terminated with immediate effect without assigning any reason. This termination order has been challenged firstly on the ground that the Manager of the Branch could not terminate the service of the applicant as he was appointed by the Regional Manager of the opposite party. The Second contention is that the Model Standing orders under the Standing Orders Act, 1946 are said to be applicable to the applicant as there are no Standing Orders of the Bank. It is alleged that the applicant should be deemed to be confirmed after the expiry of the six months satisfactory probationary period and could not be discharged without assigning any reason or giving any opportunity to defend himself. The policy is said to be of hire and fire which should not be encouraged. His representations proved fruitless and for the first time during the Conciliation proceedings the applicant learnt that his services were terminated by the opposite party on the ground that he had wrongfully obtained appointment in the Bank by concealing his actual qualification. For employment in the Bank as peon a person should not have studied beyond 8th Std. and it was alleged that the applicant did not disclose to the Bank that he had studied in 9th Standard, and as he had studied beyond 8th Std., he was disqualified for the post to which he was appointed. This contention of the opposite party is said to be baseless. The applicant is only 8th pass. He did seek admission to class 9th July, 1965 but his

name was struck off in Sept., 1965 due to long absence. This has been mentioned in the Transfer Certificate of Government Secondary School, Lalsot issued to him. He had never studied in 9th class and being admitted to a class does not mean that he has acquired a qualification of having studied in a higher class. The Transfer Certificate which contains all this information was submitted by the applicant at the time of joining service and if there was any misunderstanding at the time of appointment he could not be said to be guilty of concealing the true facts. Had he been afforded any opportunity to explain the matters he would have clarified the whole matter but action was taken against him without affording any opportunity to show cause. The ground for terminating his service is said to be unjustified and nothing but colourable exercise of power and unfair labour practice. The workman has claimed reinstatement with full back wages and other consequential benefits.

3. In reply the Bank has admitted the appointment of the applicant but has pleaded that on the expiry of the period of probation the service of the employee automatically came to an end. His services are said to be not satisfactory as he did not perform his duties with sincerity and devotion. In his case the Bank took a decision not to extend his period of probation and not to confirm him as his work was not satisfactory. As his period of probation was not extended and he was not confirmed on the post of peon his service came to an end. His claim for reinstatement with full back wages is denied.

4. From the pleadings, it can be said that the opposite party has taken up a simple case that during the period of probation of the employee his service can be terminated without recourse to any law or procedure while the contention of the workman is that this cannot be done without assigning any reason for taking the action and that reason can be scrutinized by the Tribunal. The appointment letter of the applicant is Ex. M2, the relevant clause is —

"You will be on probation for a period of six months which may be extended by the Bank at its discretion. During the probation period, your services are liable to be terminated by one month's notice or payment of one month's pay and Allowances in lieu of notice."

In accordance with this, termination letter was issued which reads as under :—

"It has been decided to terminate your service with immediate effect. Therefore, you are relieved from this office today that is 23-6-81 after office hours. As condition you are being paid one month's salary in lieu of notice."

The applicant has placed reliance on 1973 S.C.C. (I&S) 572, *The Management of Brooke Bond India Vs. Y. K. Gautam*. In this case the respondent was appointed as a salesman on six months probation by the Company. The Company vide clause (1) of its appointment letter reserved the right to terminate his service during the period of probation or before confirmation in writing, without notice and without assigning any reason whatsoever. His services were terminated in terms of this clause in his appointment letter. It was held that the Tribunal can in a case where an industrial dispute is raised, go into the question of the validity of the order of termination, even in the case of a probationary whose services have been dispensed with before the probation expired without assigning any reason. The Tribunal can enquire whether the order of termination has been effected in the bonafide exercise of the power conferred by the contract. It is open to the Tribunal to consider whether the termination is mala fide or whether it amounts to victimisation of the employee or an unfair labour practice or is so capricious or unreasonable as would lead to the inference that it has been passed for ulterior motive and not in bonafide exercise of the powers arising out of the contract. In such a case it is open to the Industrial Tribunal to interfere with the order of the management and to afford proper relief to the employer. Similarly in *Management of Utkal Machinery Ltd. Vs. Workmen of Santi Patnaik*, 5 S.C.I.J. (1967) 2968, it has been held that in a case of termination of service, during

the probationary period according to stipulation in the contract, without any notice and without assigning any reason, the Tribunal is competent to enquire whether the order of termination of service has been effected bonafide. In *Management of U.B. Dutt and Co. (P) Ltd., Vs. Workmen of U.B. Dutt and Co. (P) Ltd.*, reported in 6 S.C.L.J. (1967) 3738, it has been held that even when the Standing Orders of Company confers unfettered right to hire and fire, the Industrial Tribunal has jurisdiction to enquire into the causes of termination of service in order to find out whether it was colourable exercise of power and was not bonafide.

5. For the opposite party reliance has been placed on 1977 L.I.C. 1013, *United Commercial Bank and Another Vs. V. J. Vyas and others*, in which the services of a Bank Employee were terminated as he failed to vacate the quarter allotted to him, on his transfer to another place. On basis of the facts in this case it was held that the employee was not condemned unheard though no formal charge sheet or show cause notice had been issued and no formal enquiry was held. It was held that there was no violation of principles of natural justice. Another case relied upon is 1977 L.I.C. 592, *Omprakash Vs. Union Bank of India and others*. In this case the services of a probationary Bank employee were terminated by giving one month's salary according to the terms of engagement of employment. It was held that show cause notice was not necessary before the termination and the case did not involve any question of law or disputed facts requiring consideration by the Industrial Tribunal. The State Government had refused to refer the dispute to the Tribunal and this order of refusing to refer the dispute to the Tribunal and this order of refusing to refer for adjudication was held valid. When the work and conduct of the workman during probationary period was not satisfactory and there was nothing to show that the action was mala fide. The Court did not interfere with the Government decision.

6. If every employee is to be confirmed on the expiry of probation period the very purpose of making appointment on probation would become meaningless. The employer can terminate the service of an employee before the expiry of his probation period but then this action has to be bonafide and not based on extraneous consideration. If it is on account of certain allegations or charges against the workman then he is to be given an opportunity to show cause. It is also open to the Tribunal to go into such allegations in order to find out whether the termination is bonafide or otherwise. Justifiability of termination order during probation period has been held proper by the Supreme Court decision also and this has to be done in the present case.

7. The Circular dated 25-2-71 of the Bank lays down the criterion and procedure for the appointment of clerical and subordinate staff. Academic qualification for the recruitment in the subordinate cadre (peon) is that he should have passed 7th Std. but should not have studied beyond 8th Std. and should have elementary knowledge of English. As the appointment of the applicant was in this category his qualification may be perused. In his application from he has submitted that he is 8th pass and has given percentage of marks of 8th class. Alongwith his application he submitted School Leaving Certificate from the Government Secondary School, Lalsot, in which he has been shown as 8th pass who was given admission to 9th class on 5-7-65 and further it is mentioned that his name was struck on 21-9-65 due to long absence. The cause of removal from school is long absence. When from 5-7-65 to 21-9-65, he remained absent for long time then it can hardly be said that he has studied beyond 8th Standard. The Transfer Certificate was issued in March, 1979 and the date of admission, date of removal, cause of removal, etc. were all entered in the record at the relevant time in the year 1965. So the applicant is a person who after passing 8th class took admission in the 9th class but his name was struck off after 2 and half months as he was absent for a long time. The Bank wants to say that the applicant has studied beyond class 8th and therefore became ineligible for employment in the subordinate cadre of the Bank. The question is, after having taken admission to class 9th and even assuming that the applicant attended the class for a few days, can it be said that he has studied beyond 8th Std. so as to say that he does not fulfil the aca-

ademic qualification required for the recruitment in the subordinate cadre in the Bank. He could not be eligible for a job for which the qualification required is 9th pass or studied up to ninth. Getting admission in a class does not mean that he has studied in the class. He should have read the whole year.

8. The criterion for recruitment in the Bank was reviewed in Dec., 1983 and it was clarified that for recruitment in all categories in the subordinate cadre, the minimum qualification is to be 6th class pass and maximum qualification is 8th class pass and studied in 9th Std. but not passed the examination. It was further clarified that those who have failed in 9th class would be considered eligible for recruitment subordinate cadre. However, this is a subsequent clarification and in 1981 this clarification was not there for the guidance of the officers. However, it is to be seen whether it can be said that the applicant had studied beyond 8th class so as to make him ineligible to the post of peon. Even in his application for job the workman has written that due to financial difficulties he did not study beyond 8th class. His School Leaving Certificate does not show that he had studied in class 9th. The circular of the Bank cannot be interpreted so as to exclude the applicant from the category for which he could be eligible. When he has neither passed 9th class nor studied in this class he cannot be said to be disqualified or ineligible for recruitment to the subordinate cadre which requires maximum qualification as 8th class pass. It may also be clarified at this stage that the applicant did not conceal this position in any manner. His School Leaving Certificate was before the Appointing Authority at the time of his appointment. If they had properly scrutinized the form and put the interpretation which they want to put now, then they would not have given him appointment. It seems that the Bank has tried to put the blame on the applicant for something not when by him. The applicant has not studied in class 9th and when he is eligible for appointment to the subordinate post then there is no justification in disallowing him from continuing on the post on the ground that he has studied beyond 8th class. The action of the opposite party may not be mala fide but is not justified from any angle. The manner in which the Bank Authorities have taken their stand in this case is improper exercise of authority which cannot be permitted.

9. The termination of the applicant's service is not justified in any manner. He is entitled to be reinstated in service with full back wages and his services shall be treated as continuous.

10. An award is passed accordingly which may be sent to the Government for publication.

SMT. MOHINI KAPUR, JUDGE

[No I-12012/257/83-D II (A)]

का.आ. 3801.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) के धारा 17 के अन्वय में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन से सम्बद्ध नियोजकों और उनके कर्मचारियों के बीच, अन्वय में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचाट को प्रकाशित करने है, जो केन्द्रीय सरकार को 12-7-85 प्राप्त हुआ था।

[संख्या एन 12012/306/84डी- 2(ए)]

S.O. 3801.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure in the industrial dispute between the employers in relation to the State Bank of India and their workmen, which was received by the Central Government on the 12th July, 1985.

BEFORE SHRI R. B. SRIVASTAVA PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL,
CUM-LABOUR COURT, KANPUR

Industrial Dispute No. 44 of 1984

In the matter of dispute between :

Shri R. N. Yadav, C/o Shri N. C. Pande C-323 Guru
Teg Bahadur Nagar, Kareli, Allahabad.—Workman.

AND

The Regional Manager, State Bank of India, Region III
The Mall Kanpur.—Management.

AWARD

1. The Central Government, Ministry of Labour, vide its notification no. I-12012(306)/83-D.II-A, dated 16th May 1984, has referred the following dispute for adjudication :

"Whether the action of the management of State Bank of India, Region III, The Mall, Kanpur, in relation to their Phulpur Branch, Allahabad in terminating the services of Shri R. N. Yadav Guard w.e.f. 13-12-82 is justified. If not, to what relief is the workman concerned entitled ?"

2. It is common ground that the workman Shri R. N. Yadav was working as Badli Guard in State Bank of India. He entered in the management bank as Badli Guard as early as 4-5-75 and worked in different branches of the management bank and lastly he was employed as Badli Guard in Phulpur branch on 24-8-80, and after working for more than 240 days his services were terminated on 13-12-82.

3. In the statement of claim the workman has prayed for quashing the order and to reinstatement of the workman with continuity of service and with full back wages alongwith interest. He has further averred that he was never paid reinstatement compensation or notice and further provisions of section 25 G of the I.D. Act were not complied with. He has further averred that several persons were appointed as Badli Guard after his termination but he was not given a chance of reinstatement by the management bank hence the management violated the provisions of section 25H of the I.D. Act.

4. The management has raised two preliminary objection that before raising industrial dispute no demand by the workman and secondly that the case of the workman is not covered under section 2-A of the I.D. Act as he was neither discharged, retrenched, dismissed or terminated as the services of the temporary guard will deemed to have come to an end on every day.

5. The management has denied violation of 25G or H and that the workman had not completed 240 days of work.

6. As regards the first point on demand, the workman had averred that on negotiating with the management branch for his reinstatement. He had been making representation one of which is on record dated 15-3-83 filed by the management and admitted by the workman. Beside this document, the workman raised industrial dispute with Asstt. Labour Commissioner (Central) copy of which is paper no. 13 of the list of document filed by the workman which is related to reconciliation proceedings regarding the wrongful termination of the workman dated 13-12-82. This was enough to raise demand.

7. Raising of demand is not a condition precedent to raise an industrial dispute as held in the case of Shri S. N. Goel Versus Bank of Baroda 1971, 111 page 484. Thus the preliminary objection regarding demand is answered in the negative.

8. As regard the point no. 2 that the post of Badli Guard will be deemed to have come to an end every day as he was employed for a day and duty come to an end every day. It may be pointed out here that the management itself has referred such badli guard in its written statement and their document as temporary badli guard. The management in one of its circular no. nil dated 13-6-84 paper no. 18 of the documents filed by the workman have treated badli guard

as temporary employees and has observed in paragraph two of the said circular in the following words :

"Temporary appointment were to be made for a minimum period of 90 days in the subordinate staff and 180 days in the case of temporary/badli guard after obtaining suitable number of names from the concerning employment exchange".

9. In the fifth schedule of the Industrial Dispute Act, recently added by amendment item no. 10, it has been specifically laid down that "to employee workman as Badli guard casually or temporary and to continue them as such for more with the object of depriving them of the status and privilege of permanent workman is an unfair labour practice.

10. Bipartite settlement recognises only three type of workman namely (i) Permanent, (ii) parttime and (iii) temporary. Badli guard will not come in the category of part time employees and hence in view of the matter they are temporary employees and not part-time or casual. As ingredient of casual labour was required to be resorted too for work of casual nature only and they were not to be engaged in the place of subordinate staff. In view of the above said circular dated 19-6-84 paper no. 18 part 5.

11. Now it being settled that the temporary guard are temporary workman if they have completed 240 days in one continuous year, they can not be terminated without retrenchment compensation and notice pay. It is common ground that neither retrenchment compensation nor notice pay was given to the workman. The joint inspection report filled by the parties dated 16-3-85 establishes beyond doubt that the workman had completed more than 240 days on the day of his termination i.e. on 13-12-82 as is admitted in the yearwise summaries of the duty done by the workman which is paper no. 12 of the workman's document. The termination of the workman on 13-12-82 which termination amounts to retrenchment without notice pay or retrenchment compensation being void abinitio, he will be deemed to be continuing in the service and would be entitled to full back wages.

12. It appears that the management considering the fact that the workman had qualified for regularisation in the services of the management bank issued him letter on 5th October, 1984 Annexure 3 of the workman affidavit calling him for interview in connection with his absorption in service. Annexure J of the affidavit also shows that as earlier as 23rd May, 78 the management issued him letter to the effect that it has been decided to post the workman permanently at our High Court Sub Office with immediate effect. Please, therefore, report for duty to the official Incharge High Court Sub-Office meaning thereby that he was required by the management to report for duty. It may be mentioned here that the workman had completed 259 days as per admitted charge at Allahabad Main Branch in the year 1978 and he also completed 840 days at Phulpur Branch in the year 1981 as he worked for full 314 days therein that year.

13. The joint inspection report shows that the workman was given medical facility in the year 1981-82 which facility is given to the temporary workman who have completed at least one year as laid down in Hand Book of Staff Matters Volume I of State Bank Of India para 513 extract of which is annexure II of the workman affidavit. It lays down that all temporary employees in the bank will be eligible for medical benefit as provided to the workman staff for the period served by them. The accumulation of this benefit will be permitted only in case of temporary employees who has served the bank for a period of at least one year either without any break or with break not exceeding seven days at the time.

14. The testimony of management witness Shri V. K. Mehrotra stands belied on the point when he deposes that the workman is not eligible for medical benefits.

15. In view of the above I rely on the testimony of the workman and further in view of the discussion made above I hold that the termination of the workman concerned was made after 240 days of work, hence the termination is void

and I accordingly, hold that the action of the management bank State Bank of India, Region III The Mall, Kanpur, in relation to their Phulpur Branch, Allahabad, in terminating the services of Shri R. N. Yadav w.e.f. 13-12-82 is not justified and the same being void abinitio, the workman concerned is entitled to be reinstated in the services of the management bank with fullback wages and all benefits connected with it.

16. I, therefore, give my award accordingly.

R. B. SRIVASTAVA, Presiding Officer

[No. L-12012/306/83-D. II(A)]

का.आ. 3802--औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) के धारा 17 के अन्तर्गण में केन्द्रीय सरकार, सेंट्रल बैंक आफ इंडिया के प्रबंधन में सम्बद्ध निर्योजकों और उनके कर्मचारों के बीच, अन्तर्गण में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचाट को प्रकाशित करते हैं, जो केन्द्रीय सरकार को 12-7-85 प्राप्त हुआ था।

(सम्पादन 12012/134/83-डी-2(ए))

S.O. 3802.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur, as shown in the Annexure in the industrial dispute between the employers in relation to the management of Central Bank of India and their workmen, which was received by the Central Government on the 12th July, 1985.

BEFORE SHRI R. B. SRIVASTAVA PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
CUM-LABOUR COURT, KANPUR

Industrial Dispute No. 33/80

In the matter of dispute between :

Shri S. P. Rastogi C/o The Joint Secretary, All India
Central Bank Staff Federation, 21 Sarai Nagar, Ali,
Ghaziabad.

AND

The Assistant General Manager, Central Bank Of India,
23 Vidhan Sabha Marg, Lucknow.

PRESENT :

Shri Tara Chandra—for the workman.

Shri S. S. Trivedi—for the Management.

AWARD

The Central Government, Ministry of Labour, vide its notification No. L-12012/142/79-D.II. A dated 15th May, 1980 has referred the following dispute for adjudication.

Whether the action of the management of the Central Bank of India, Lucknow Division, Lucknow in denying permanent employment to Shri S. P. Rastogi, Asstt. Cashier-Cum-Godown Keeper in spite of his having passed the prescribed qualifying written test / Interview held for the purpose in 1972, is justified ? If not, to what relief is the said workman entitled ?

By its order dated 6-11-80 the Ministry of Labour issued a corrigendum to the effect that the figure "1972" in line No. 6 of the Schedule to its order dated 15-5-80 was to be read as 1973.

1. The workman concerned Shri S. P. Rastogi was appointed as temporary clerk in the management Central Bank Of India in Lucknow Division in the year 1970 and was given temporary appointment from time to time in the year 1971 and 72 at various branches in the bank. In the letters of the temporary appointment issued to the workman there was a stipulation to the following fact :

This appointment will not entitle him to claim appointment in permanent vacancy for which he have to qualify written test and interview as and when held by the bank

The workman had worked as temporary hand for 166 days in the year 1970-71 at Mooradabad branch and in the year 1972 for different periods ranging to 15 to 30 days at branches Gorakhpur, Jogania, Mooradabad and Chauraghi Mooradabad. Subsequently vide circular dated 6-5-68 which is numbered as 4 the management hold a recruitment test in which the workman also applied for regular appointment in the bank. The workman did appear in the written test held at Lucknow on 1-4-73 which he qualified and was later called for interview which too he qualified and his name appeared at serial No. 20 of the list of the selected candidates, copy of which is annexure W-3 to the claim statement. Despite this selection the workman was given temporary appointment from 11-6-73 for a month at Bulla Branch whereafter no appointment was given to him whereas the management continued to give temporary appointment to other candidates of the said imperial list of the selected candidates some of whom were subsequently taken in permanent service of the bank also. The workman made several representation to the bank for his appointment which the bank ultimately declined his claim by letter annexure W-5. It is averred that the management while ignoring the claim of the workman serial no. 21 namely Shri Mangali Prasad and other person whose name appeared at serial no. 22 namely Shri M. L. Jhingaran and both of them appointed permanently. This fact is not denied rather it is admitted by the management bank in its reply dt. 1-12-81. It is not disputed that the workman had fulfilled the conditions for being appointed permanently in the bank after having qualified in the written test and interview as and when vacancy accrued within the stipulated period.

2. In the above circular no. 4 dated 6-5-68 filed by the management it is laid down in para 7 (A) (IV) special rules for recruitment to clerical cadre regarding sons and daughter of the employee. Sub Clause A of this lays down that 25 per cent of the vacancy will be filled up from this reserved category. This circular no. 4 dated 6-5-68 was followed by another circular No BID/16/101C, dated 10-6-68 Ext. W. 1 which lays down :

The candidates who have qualified but who can not be appointed due to lack of vacancies will then be placed on the waiting list in the order of merit, provided they have scored the minimum number of marks required at the written and interview test.

It was further laid down :

In the case of reserved category also, the offer of appointment must be made strictly in the order of merit in the case of both accounts and cash & Godown section.

3. It is admitted by the parties that the recruitment of the candidates listed in Annexure W-3 to the statement of claim was under the reserved category of the sons and daughters of the banks employee. The management witness Shri P. K. Dev in his affidavit has admitted that the appointment of the candidates carrying at serial no. 22 i.e. Shri M. L. Jhingaran was in preference workman Shri S. P. Rastogi whose name appeared at serial no. 20 was made on account of subpara B of para IV of rule 7 which lays down :

To be qualified to be considered for appointment in the special reserved category the parent concerned should have put in 15 years of uninterrupted service

and in order of preference to sons of employees who may have died while in service, retired, nearing retirement and those serving the bank

4. On the basis above rule in the recruitment policy it has been the management that contended by Shri M. L. Jhingaran whose name appeared at serial no. 22 was considered also on account of retirement of Shri L. N. Jhingaran whereas the father of the workman was still having in service.

5. On the other hand it has been submitted on behalf of the workman that the above referred rule relied upon by the bank is meant only for determining the eligibility of the sons and daughters of the bank's employee to be considered for appointment in the bank and not for purpose for their actual employment in derogation of direction given in circular dated 10-6-68 laying down as follows :

In the case of reserved category also the offer of appointment must be strictly in order of merit in the case of both the accounts and cash and godown section.

This circular is later to the circular no. 4 dated 6-5-68 which gave them a right to be considered them for imperial merit after test and interview. Thus Shri M. L. Jhingaran who stood at serial no. 22 in the list of sons and daughters of employees being lower in rank in the order of merit. As regards the workman Shri S. P. Rastogi who stood at serial no. 20 would be illegal and unjust. Shri Jhingaran should not have been allowed preference over Shri S. P. Rastogi workman in the matter of permanent appointment only because his father retired earlier. This action of the management was wholly illegal, unjust and in violation of the banks recruitment policy.

6. Subsequently after the decision of a case of Delhi High Court the recruitment of sons and daughters of the banks employees in preference to those who appeared in merit list was struck down as discriminatory. The management also by circular dated 19-4-76, 24-4-76 directed the nationalised bank not to give any further preference to the sons and daughters of the employee. This circular and decision of the Delhi High Court do not effect the present case as the appointment of Shri Jhingaran was given much before 1976 when the decision and the Govt. circular came. Thus this discrimination will apply to further recruitment test and not in those case in which the persons have been appointed or right of appointment have been vested as they were wrongfully withheld from being appointed.

7. As regards appointment of Shri Mangali Prasad, it has come in evidence that his appointment was made as he belong to reserved category of scheduled caste. Even if it was so Shri M. L. Jhingaran should not have been given preference over the workman Shri S. P. Rastogi.

8. In view of the above discussion I hold that the action of the management of the Central Bank of India Lucknow Division in denying permanent employment to Shri S. P. Rastogi, Asst. Cashier-cum-Godown keeper in spite of his having passed the prescribed qualifying written test/interview held for the purpose in 1973 is not justified.

9. The result is that he has to be given appointment in the bank from the day Shri Jhingaran was appointed.

10. I, therefore, give my award accordingly

[No. L-12012/142/79-D. II(A)]

नई दिल्ली, 23 जुलाई, 1985

क. अ. 1901-—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, युनाइटेड काम-प्रियन बैंक के प्रबंधन में सम्बद्ध नियोजकों और उनके कर्मचारों के बीच,

अनुबंध में निविष्ट औद्योगिक विवाद के केन्द्रीय सरकार औद्योगिक अधि-
करण, जबलपुर, के पंचद को प्रकाशित करती है, जो केन्द्रीय सरकार को
11-7-85 प्राप्त हुआ था।

[सं एन०-12012/110/83-डी 2 (ग)]

New Delhi, the 23rd July, 1985

S.O. 3803.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur, as shown in the Annexure in the industrial dispute between the employers in relation to the United Commercial Bank and their workmen, which was received by the Central Government on the 11th July, 1985.

BEFORE SHRI M. A. DESHPANDE, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO. II, BOMBAY (CAMP AT JABALPUR)

Case No. CGIT-2/23 of 1985 (Bombay)

Case No. CGIT/LC(R)(67) of 1983 (Jabalpur)

PARTIES :

Employers in relation to the management of United Commercial Bank, Divisional Office, Bhopal and their workman represented through the Zonal Secretary, M. P. Bank Employees' Association, Singhal Bhawan, 2nd Floor Jaydangani, Gwalior (M.P.)

APPEARANCES :

For Union—Shri H. N. Upadhaya, Advocate (Absent)

For Management—S/Shri P. S. Nair, Advocate and Rajendra Menon, Advocate.

INDUSTRY : Banking DISTRICT : Gwalior (M.P.)

AWARD

By Order No. L-12012/110/83-D.II (A) dated 14th December, 1983 (transfer vide Order No. S-11025(1)/85-D.IV (B) dated 8th February, 1985) the following dispute has been referred for adjudication :—

“Whether the action of the management of United Commercial Bank, Divisional Office, Bhopal in relation to their Branch P.aya Bazar, Lushkar-Gwalior in not revising the date of birth of Shri Bhoop Singh in their own records from 2-9-1929 to 8-2-1932, is justified ? If not, to what relief is the workman concerned entitled ?”

2. From the statement of claim the case of the workman briefly stated appears to be that the workman, Bhoop Singh, was appointed as an office boy in the Naya Bazar Branch of the United Commercial Bank with effect from 1-4-1948, then in the very next year he was promoted as a Peon and in the year 1954 as a Daftary. This was followed by another promotion as Despatcher-cum-typist in the year 1968, followed by promotion as a Clerk in the year 1976 and then as a Special Assistant on 1-7-1980. It seems that at present he is serving as a Field Officer. The grievance of the workman is that sometime in the year 1962 he came to know that the Bank record wrongly noted his date of birth as 2-9-1929 when according to the workman his real birth date is 8-2-1932. When his attempts to rectify the bank record failed the present dispute was raised ultimately leading to the present reference.

3. The Bank has refuted all these allegations. Shortly stated their case is that the entry in the Bank record regarding the date of birth of the employee was on the strength of the information furnished by the employee himself at the time of entry into the bank service when he also furnished the requisite information for preparing the Provident Fund form where the same date was reiterated. It is further stated that the employee before he joined the United Commercial Bank had put in 14 years' service with the

Bharat Bank Gwalior and if the contention of the employee is to be accepted it would tantamount to mean that at the time of his joining the Bharat Bank he had not even completed 15 years of age which can never be true and therefore this very fact belies his contention regarding the incorrect entry.

4. The Union which is espousing the cause of the workman has also filed rejoinder to the Bank's statement where the earlier contentions have been raised again.

5. In view of the nature of the dispute everything depends upon whether there was any mistake committed while recording the date of birth of the workman. Now it is common knowledge and not denied by the Union or the workman that at the time of the entry into the Bank's service particulars regarding the date of birth etc., are required to be furnished by the employee himself, the employer having no knowledge thereof till the time they are apprised of the same. Naturally the date of birth as 2-9-1929 must have been furnished by the employee himself and therefore in case it is his version that a mistake occurred the burden would heavily lie on him to establish the said mistake. In order to discharge that burden he must adduce cogent evidence to prove the discrepancy and to establish the cause behind the same. Today when the matter was fixed for hearing neither the workman is present nor anybody else on his behalf nor is there on record proved document which would support the workman's case. If therefore on one hand there is no evidence and against this the entry itself was at the instance of the workman himself, the same entry which has repeated in the Provident Fund form as contended by the Bank, shall have to be accepted as true and correct, in which case the Bank's rejection to rectify the record must be held to be justified leaving no ground to grant any relief to the workman. Award accordingly.

Dated : 3-7-85

M. A. DESHPANDE, Presiding Officer

[No. L-12012/110/83-D.II(A)]

का. आ 3804.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) के धारा 17 के अनुसरण में केन्द्रीय सरकार, सेक्टर बैंक आफ इंडिया के प्रबंधन में सम्बद्ध नियोजकों और उनके कर्मचारियों के बीच अनुबंध में निविष्ट औद्योगिक विवाद से केन्द्रीय सरकार औद्योगिक अधि-करण, जबलपुर के पंचद को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-7-85 प्राप्त हुआ था।

[सं एन०-12012/110/83-डी 2 (ग)]

S.O. 3804.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Chandigarh, as shown in the Annexure, in the industrial dispute between the employers in relation to the Central Bank of India and their workmen, which was received by the Central Government on the 11th July, 1985.

BEFORE SHRI I. P. VASISHTH, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, CHANDIGARH

Case No. I. D. 68/1985

PARTIES :

Employers in relation to the Management of Central Bank of India Rohtak-Haryana.

AND

Their Workman : S. L. Chandna.

APPEARANCES :

For the Employers—Shri D. D. Kapoor.

For the Workman—Shri R. K. Sharma.

INDUSTRY : Banking

STATE : Haryana

AWARD

The Central Government, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the Industrial Disputes Act 1947, per their Order No. L-12012/172/84-D.II (A) dated the 16th April 1985 referred the following industrial dispute to this Tribunal for adjudication :—

“Whether the action of the management of Central Bank of India in not promoting Shri S. L. Chandna Teller-cum-Clerk, at their Sonapat Branch, Haryana with effect from 28-2-84 or after 14-3-84 when he represented is justified ?” If not, to what relief is the workman concerned entitled ?”

2. During the course of hearing a suggestion was floated to the Management to give a second thought to the petitioner's claim for promotion. In all fairness to them the Management responded with grace and accorded the promotion to the petitioner to his complete satisfaction as would be evident from the statement of his authorised representative taken on the Tribunal's record and in view thereof the dispute does not survive any more.

3. Hence Award returned accordingly.

Chandigarh.

Dated : 4-7-1985.

I. P. VASISHTH, Presiding Officer
[No. L-12012/172/84-D.II(A)]

का. अ. 3805—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, सेन्ट्रल बैंक ऑफ इंडिया के प्रबंधन से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-7-85 को प्राप्त हुआ था।

एन. के. वर्मा

[संख्या-एल 12012/182/79-डी (2) (ए)]

New Delhi, the 24th July, 1985

S.O.3805.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure in the industrial dispute between the employers in relation to the Central Bank of India and their workmen, which was received by the Central Government on the 16th July, 1985.

BEFORE SHRI R. B. SRIVASTAVA PRESIDING OFFICER CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, KANPUR

I. D. Nos. 108/80, 87/80 and 195/81

In the matter of dispute between :

1. Arun Prakash,
2. G. V. Khanna,

C/o Shri O. P. Nigam, Labour Advisor and State President, U.P.B.E. Congress. 295/387, Deen Dayal Road, Asharfabad Lucknow.

AND

The Assistant General Manager, Central Bank of India, Vidhan Sabha Marg, Lucknow.

PRESENT :

Shri O. P. Nigam representative—for the workman.
Shri S. Trivedi, representative—for the management.

AWARD

1. The Central Government, Ministry of Labour, vide its Order No. L-12012/182/79-D.II (A) dated 14-8-80, referred the following dispute for adjudication :

“Whether the action of the management of Central Bank of India, Lucknow Division Lucknow, in denying permanent to Shri Arun Prakash, an ex-employee in the clerical cadre inspite of his having passed the prescribed qualification written test/interview held for the purpose in 1973 is Justified ? If not, to what relief is the workman concerned entitled ?”

2. The Central Government has again referred the dispute of Shri G. V. Khanna vide its Order No. L-12012/183/79-D.II (A) dated 19-12-81 for adjudication :

“Whether the action of the management of Central Bank of India, Lucknow, Division Lucknow, in denying permanent employment to Shri G. V. Khanna inspite of his having passed the prescribed qualifying written test/interview held for the purpose in 1973 is justified ? If not, to what relief is the workman concerned entitled ?”

3. In view of common question of law and fact involved in these three cases they were consolidated vide order dated 10-11-83 and I. D. No. 87 of 80 was made the leading case.

4. The case of the applicant is that in view of Banks circular No. 4 of 1968, he as son of the bank employee, passed the written test and interview and was selected for cashier reserved category and was placed at serial No. 11 in the 1st. ...At the time when the merit list was circulated the workman was working at branch office Moradabad as temporary cashier. The services of the workman were terminated on 7th July 73. On the basis of the merit list he approached the management for fresh appointment but his claim was ignored and the persons junior to him in the merit list were appointed. It is averred that from May, 71 to 73 he had worked at four different stations but he was neither given any notice or notice pay in lieu of notice as required by para 522(4) of the Sastri Award. The bank is appointing persons from the said list of reserved category. The bank had earlier told that the reserved category was excluded from the merit list, which is unjust and illegal. He has consequently prayed to be appointed.

5. The management bank in its reply has raised a preliminary objection in its written statement. Firstly that the workman is not a workman within the definition of the I. D. Act and secondly that the workman had no right for permanent absorption and the reference is bad in law. The management admits the contention of the workman's statement of claim paras Nos. 1 to 4 with this addition that no notice was required for dispensing away with the service of temporary workman and his employment in reserved category did not vest in him any right to continue as temporary bank employee. It was under circular dated 25-6-73 that the persons of temporary clerks cashiers was to be dispensed with and permanent hands out of penal appointed. As per policy/practice of bank after appointing these candidates of general category one person of scheduled category was to be appointed.

6. It is admitted that after 7-7-73 the workman was not given appointment in the bank. It is further admitted that he worked as badli workman in different branches and no notice under para 522(4) of Sastri Award was required. It was under circular staff/76-249 dated 10-4-76 that the names of employees sons and daughters were excluded. Further recruitment of staff is not under the purview of the bank as the recruitment process has been assigned to the Banking Service Recruitment Board. It is admitted that Mangali Prasad was recruited but he was employed being scheduled caste candidate to fulfil the constitutional obligation and backlog of the scheduled caste candidates.

7. In rejoinder the workman has averred that change in policy was not intimated to him and that the law laid down for future action and not for deleting the merit list.

8. It is not disputed that prior to 1974 i.e. upto 1973 both the workman worked in different branches of the management bank to falling 403 and 462 days respectively

Ext. W-1 to W-6 shows that the workman Shri G. V. Khanna had not completed 240 days in a year. He worked in different branches hence it can not be said that 240 days in a year would have completed but for artificial breaks. Similarly workman Arun Kumar had not completed 240 days in a year, but had worked for 200 days only at Basti and Deoria.

9. Both the workman had approved in the test conducted by the bank management in 1973 and on the basis of the interview they could qualify for cashiers reserved category at Sl. Nos. 11 and 13. Both the workmen had worked upto July 73 as temporary workman at Moradabad and Basti respectively.

10. If the workmen wanted to contest that they were neither appointed for a limited period for work which is essentially of a temporary nature or employed temporarily as an additional hand in connection with temporary increase in work of a permanent nature; or who is appointed in a temporary vacancy caused by the absence of a particular permanent workman and was a probationer, should have been taken soon after the termination in 73 and not in 1980 and could not be absorbed till 1976. In the instant case the delay is more than 3 years.

11. In Vooghas case—1963 II LLJ 569, for 18 months delay the supreme court refused to issue writ.

12. The management in pursuance of its recruitment policy terminated temporary service of Arun Kumar and G. V. Khanna. The service of Arun Kumar stood terminated on 13-7-73 by efflux of time, whereas the service of Shri G. V. Khanna, a temporary employee was terminated on 7-7-73.

14. A plain reading of para 522(4) of Sastri Award shows that the service of a temporary employee may be terminated by employer or he may leave service after 14 days notice. Why 14 days notice was required by the workman and not by the management is made clear in the last line of the paras in the following words :

If such an employee leaves service without giving such notice he shall be liable for a weeks pay. Such a notice is required by the employee so that the management may know before and make arrangements. The law makes the employee liable for payment under sec. 25F he has worked for 240 days in a year. This is not the case here. Para 522.4 of the Sastri Award thus does not entitle the workman to get notice of 14 days before termination.

15. Further recruitment and empanelment for employment by future date does not give any right to the person empanelled, to be given appointment. Rights and liability commence from the date a workman is taken in employment as a permanent vacancy.

16. Thus the workman do not have any right to employment only on the basis of empanelment.

17. It is not disputed that any of the workman have not completed 240 days work in any year.

18. Thus in view of the observation above none of the two workman are entitled to any relief.

19. The reference is answered in the negative and award made accordingly.

Let six copies of this award be sent to the Government for publication.

R. B. SRIVASTAVA, Presiding Officer

[No. L-12012/182/79-D.II(A)]

नई दिल्ली, 25 जुलाई, 1985

का. अ. 3806—औद्योगिक विवाद अधिनियम, 1947 (1917 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, गेन्दुल बैंक ऑफ इंडिया के प्रबंधन से सम्बन्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधि-

करण, कानपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-7-85 को प्राप्त हुआ था।

[संख्या एन-12012/193/80-डी. 2 (ए.)]

New Delhi, the 25th July, 1985

S.O. 3806.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur, as shown in the Annexure in the industrial dispute between the employers in relation to the Central Bank of India and their workmen which was received by the Central Government on the 16th July, 1985.

BEFORE SHRI R. B. SRIVASTAVA, PRESIDING OFFICER
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL,
KANPUR

I. D. No. 169 of 1981

In the matter of dispute between :

Shri Simal Chand Jain, resident of 776/6, Naihasu
(near Brahan Singh Tubewell) Brahampur,
Meerut-250002.

AND

The Management of Central Bank of India, 23 Vidhan
Sabha Marg, Lucknow.

PRESENT :

Shri T. C. Gupta—for the workman.
Shri S. Trevedi—for the management.

AWARD

1. The Central Government Ministry of Labour vide its notification No. L-12012/193/80-D. II(A) dt. 6th November, 1981 has referred the following dispute for adjudication :

“Whether the action of the management of Central Bank of India, Lucknow in dismissing Shri Simal Chand Jain, an Ex-Asstt. Cashier at the Meerut City Branch of the bank with effect from 7-9-77 in contravention of the provisions of the Bipartite settlement is legal and justified ? If not, to what relief is the said workman is entitled ?

2. The facts of this case are simple. Shri Simal Chand Jain while officiating as Head cashier of Central Bank's City Branch Meerut on 25-6-70 received some cash from the bank's strong room in the early hours and shortly after the workman reported to the Branch Manager that out of the amount taken out from the strong room Rs. 50,000 was short. The Branch Manager lodged a F.I.R. about the loss with the Police. Consequently the workman Simal Chand Jain was arrested the next day i.e. 26-6-70 and he was consequently suspended on 3-7-77 w.e.f. 26-6-70. Criminal proceedings started against the workman but the same could not be concluded till his date of superannuation i.e. 7-9-77 though on some subsequent date he was convicted by the sessions court but was acquitted in appeal. The memo was given to the workman on the same day i.e. on 25-6-70 to explain shortage. The workman replied the same on 22-7-70 in the following words :

I have been required by you to explain the circumstances which resulted in the shortage of Rs. 50,000 from the counter on 25-6-70. As the matter is being enquired into by the police and my explanation may put certain persons on their guard and thus hinder the investigations to any prejudice. I request you to postpone the taking of my explanation till the matter ends in the police.

That the criminal trial was still pending, the management filed a civil suit against the workman for recovery of Rs. 50,000. Civil Judge dismissed the suit with cost on 20-8-78 following that the liability of the management that the defendant did take out Rs. 1,46,005 and paise 80 only and that the workman himself informed the management about the shortage he however, held that it was fully proved and I hold that the defendant was negligent in dealing with cash and defendant is liable to make good the shortage of Rs. 50,000. He while deciding the issue no. 7 observed as follows :

In this case also the bank has recovered the amount from the insurance company and therefore the suit for recovery of amount from the defendant was bar in view of section 41 of the Indian Contract Act.

As held in the above noted case law and I therefore, held that the plaintiff bank has received the amount from the insurance company they can not recover amount in this case. This judgment is dated 20-8-76. It was on the basis of this judgment and the reasoning given therein and holding the workman as negligent the Assistant General Manager served the memo dated 6th September, 1977 observing as follows :

In view of the fact that session trial no. 53/73 is pending against him (workman) and by virtue of para 19.4 of the bipartite settlement the management is prevented from holding a departmental enquiry..... however, in view of the judgment of the II Civil Judge, Meerut dated 26th August 1976 and in view of overwhelming evidence the bank has come to the conclusion that Shri Simal Chand Jain has been grossly negligent in discharging of his duties. It has therefore been decided to dismiss him from the bank's services w.e.f. 7-9-77.

Shri Jain, therefore, is hereby informed that his dismissal will be effective from that date. Shri Jain is further advised that he should arrange to collect such dues as may be admissible to him from the bank after deducting the amount of loss caused to the bank and in the event of the loss exceeding the amount payable, Shri Jain should make good to the bank, the balance amount of loss so caused to the bank.

3. Under para 19.6. of the bipartite settlement, the disciplinary authority was within his power to dismiss the workman without notice if found guilty of gross misconduct. Losing Rs. 50,000 in banking industry from ones custody would be appropriate to adopt such a recourse where charge in serious loss and hence the punishment of dismissal without notice was proper. In a case where criminal or civil proceeding is pending against the workman involving enquiry of the matter which is also desired to be enquired in the domestic enquiry it would be just and proper that the employer stays the domestic enquiry pending disposal of these cases. It would be inappropriate to adopt such a recourse where charge against the workman is of a grave character because in such a case it would be unfair to compel the workman to disclose the defence which he may take before the criminal court. Though the principal of natural justice do not require that the employer must wait for decision of the criminal case or of appeal. The disciplinary authority after finding of gross negligence by civil court was within its right to rely on that and awarded the punishment thereon. The workman was to retire on 7-9-77 under the orders of the Assistant General Manager, Regional Office, Lucknow, and the orders passed on 6th September 77.

5. A dispute arisen whether in actual order the date of dismissal was written as 8-9-77 or 7-9-77. It is now admitted that the order when it was typed out and signed by A.G.M. read 8-9-77 which was overwritten in hand and changed to read as 7-9-77 by Shri S. C. I. Chawla, Deputy Manager under the instructions of the signing authority Mr. P. D. Mallaya on phone. This telephonic call was attended by

Mr. Chawla and P. C. Goyal management witness. He stated that he did not remember whether any confirmation letter was received or not. He further states that when he personally went to serve the dismissal order upon the workman he was not present there. The management vide his letter dt. 8-5-85 intimated the court that despite best effort the management could not locate any written confirmation by Shri P. D. Mallaya A. G. M. to Shri S. C. I. Chawla. Even assuming that the order was to take effect from 7-9-77 one day after his actual date of superannuation that would not effect the right of termination order by A. G. M. on 6th September 77 utmost effect of this wrong mention of date may be that the workman would be entitle to one day's pay more instead of stopping of superannuation on 7-9-77.

6. Lastly it has been urged before me that no show cause notice against the proposed punishment was given to the workman, even if the disciplinary authority took gross negligence of the workman proved after the judgment of the civil court Para 19.3(b) of the Bipartite Settlement 1966 simple lays down :

"If he be convicted he may be dismissed w.e.f. the date of his conviction or may be given any lesser punishment as mentioned in para 19.6."

7. In any paras of the bipartite settlement either 19.3 or 19.6 it is not laid down that the management will give a show cause notice against the proposed punishment as is generally required in cases attracting the provision of article 311 (ii) of the Indian Constitution.

8. In view of the above the action of the management of the Central Bank of India, Lucknow in dismissing Shri Simal Chand Jain w.e.f. 7-9-77/8-9-77 is not in contravention of the provisions of bipartite settlement and is legal and justified.

9. But in view of the judgment of the civil court and as the management had recovered the amount from the Insurance Company, the management shall not recover it again from the dues payable to the workman.

10. I, therefore, give my award accordingly.

11. Let six copies of this award be sent to the Central Government Ministry of Labour for its publication.

R. B. SRIVASTAVA, Presiding Officer

[No. L-12012/193/80-D.II(A)]

का. अ. 3807 —औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) के धारा 17 के अनुसरण में केन्द्रीय सरकार, भारतीय स्टेट बैंक के प्रबंधक से सम्बद्ध निर्वाचकों और उनके कर्मचारियों के बीच, अनुवध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकांश, कानपुर के पचाह को प्रकाशित करती है औ केन्द्रीय सरकार का 16-7-85 का पत्रक हुआ था।

[संख्या एन-12012/112/83-डी 2 (ए)]

S.O. 3807.—In pursuance of section 17 of the Industrial Disputes Act 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure in the industrial dispute between the employers in relation to the State Bank of India and their workmen, which was received by the Central Government on the 16th July 1985.

BEFORE SHRI R. B. SRIVASTAVA, PRESIDING
OFFICER, CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL, KANPUR

I. D. Number 178 of 1983

In the matter of dispute between :

Shri Govind Saran Verma, Nambiar, 2/363, Agra.

AND

The Management of State Bank of India, Lauris Hotel,
Agra.

PRESENT :

Shri V. K. Gupta, representative—for the workman.
2/363 Nambiar, Agra.

Shri S. S. Sharma, representative—for the management.

AWARD

1. The Central Government, Ministry of Labour, vide its notification no. L-12012/142/82, D. II(A) dated 11th April, 1983, has referred the following dispute for adjudication :

Whether the action of the State Bank of India Chhipi-tolla Branch, Agra in terminating the services of Shri Govind Saran Verma, Cook from 15-7-78 is justified? If not to what relief is the workman concerned entitled?

It is common ground that the workman Shri Govind Saran Verma was appointed as cook in the bank's canteen w.e.f. 23rd May, 1978 his work was temporary alongwith other temporary workmen of the canteen. Shri Govind Saran Verma worked upto 15-7-78 and after working for 54 days the workman who was working as halwai did not turn up for work. The management witness Shri A. K. Khanna has admitted that after the termination of the workman permanent appointments were made. In the end he admitted that only workman Shri G. S. Verma's name was sponsored from the employment exchange, for the post of Halwai.

3. According to the stand taken by the management in the written statement Shri G. S. Verma was not entitle to notice or retrenchment compensation at the time of termination of his service because he was appointed on temporary basis as an interim arrangement. It is, however, admitted that one Shri O. P. Verma had been appointed in place of workman on regular basis. In the end it is averred that after the bank took over management of the canteen decision was taken to select persons to regular appointment from amongst those who had already worked in the canteen and whose names were sponsored by the employment exchange. Thus forty candidates were called from the employment exchange and interviewed and the name of Shri G. S. Verma (workman) appeared at serial no. 18 and the bank management required only 9 candidates, therefore, the question of absorption of Shri G. S. Verma did not arise.

4. In the rejoinder it is averred that in view of para 522.4 of Shastri award "the services of an employee other than permanent or probationer may be terminated after 14 days notice. Sub clause V of the said para lays down that an order relating to discharge or termination of services shall be in writing and shall be sent by the management and a copy of such order shall be supplied to the employee concerned. It is further averred that the bank management illegally terminated the services of the workman on 15-7-78 and appointed another man the next day i.e. on 16-7-78 whose name was neither sponsored by the employment exchange nor he was working in the bank's canteen run by contract prior to the take over by the bank. In the end it is averred that the appointment of Shri O. P. Verma on 16-7-78 and termination of the services of Shri G. S. Verma workman on 15-7-78 without any cogent reason establishes the malafide of the management and unfair labour practice.

5. On the requisition by the workman, the management has filed the copy of the attendance register of canteen relating to year 1978. The attendance register shows that Shri Govind Saran Verma attended the canteen upto 15-7-78 and from 17-7-78 onward for the entire month his attendance

is not there and a line has drawn against his name and in the month of August, 78 his name was no brought forward in the attendance register. Appointment letter and termination letter was not filed. Regarding service record of the workman it is mentioned in the reply to the application for production of the documents that as per practise service record of temporary employee was not maintained. The management has also filed the interview list and merit list showing that the name of Shri G. S. Verma whose name was sponsored from the employment exchange and that he obtained 34 marks in the interview and that his name was sponsored from the employment exchange in the remark column 54 days temporary services were mentioned against his name. It may be mentioned here that the name of O. P. Verma was not sponsored from the employment exchange. It was shown that he has received 44 marks and had put in 175 days of service on 22-5-78.

6. It may be reasonable to terminate the service of a temporary workman if permanent appointments are made after interview. But apparently there is no reason why the services of the workman who was temporary employee abruptly terminated on 15-7-78. It also does not appeal to reason on what ground Shri O. P. Verma was appointed as temporary at his place on 16-7-78 when no test or interview had taken place on that day. It is further strange that very Om Prakash Verma who was appointed temporary on 16-7-78 stood first in order of merit after interview when particularly even his name was not sponsored for the post from the employment exchange. The date of eligibility for the interview was taken as 22-5-78 as the bank management took over the staff canteen from 23rd May, 1978 and recruitment had to be made and allegedly appointments were made to fill up permanent vacancies of the canteen even though temporary hands were working there. The management has given a service certificate dated 5-2-79 as temporary confectioner for the bank for period of 54 days w.e.f. 23-5-78 to 15-7-78.

7. The workman has filed application dated 9-8-78 requesting for leave from 17-7-78 to 7-8-78. He had filed medical certificate alongwith Ext. W-2 showing that the workman was suffering from fever from 16-7-78 and doctor advised him three weeks rest consequently he gave him fitness certificate on 6-7-78. The workman did not submit this letter of medical certificate from the management alongwith the document summoned earlier moved under sec. 11 of the I. D. Act.

8. The management examined Shri A. K. Khanna as its witness. He has admitted that on 23-5-78 Agra Branch had started its canteen in branch premises and that very canteen is still running. The staff vacancies were permanent. One Shri G. S. Verma was engaged in the canteen, after 54 days work said halwai (workman) did not turn up for work. He admits that no notice was given to the workman. After termination of the workman permanent appointments were made in the bank. In the end he admitted that only Govind Saran Verma's name was sponsored from the employment exchange for the post of halwai.

9. The workman has examined two witnesses, one Shri S. K. Chabra Canteen Manager w.e.f. 23-6-78, the date when the canteen was taken over by the State Bank of India Agra. In his affidavit he has deposed that the workman was appointed as halwai on 23-5-78 and worked upto 15-7-78. He has further deposed that after 15th July, 78 he was not allowed to work under the instruction of the branch manager. He has further deposed that the name of Shri G. S. Verma was sponsored by the employment exchange where as the workman Shri O. P. Verma was appointed directly. In cross examination he has deposed that before appointment as canteen manager he was working as clerk in the bank. He goes on to depose that on 23-5-78 the workman was appointed as temporary halwai alongwith others. He worked upto 15-7-78. The workman was terminated by the then branch manager Shri K. K. Agarwal and he never asked the workman not to come on work after 15-7-78. According to him the branch manager told the workman not to work and that the workman came on duty in the morning 16-7-78. Witness further stated that on Sundays canteen is closed as the bank is also closed but on Sunday he called one man in the bank to prepare curd etc. In the end he stated that it was wrong to suggest that he services of the workman were neither terminated nor was asked to stop

the work. The workman did not come on duty after 15-7-78 of his own and had fallen ill. Witness voluntarily said that after 15-7-78 the workman was told on the next working day not to allow the workman to work.

10. The workman in support of his contention has given his own affidavit. He deposed that he was terminated on 15-7-78 and the canteen manager asked him not to come on duty from 15-7-78. It may be mentioned here that the canteen manager has denied this fact. Rather the attendance register shows that the workman worked on 15-7-78. He denied the suggestion of the opposite party that the workman himself stop coming to attend the canteen. When confronted with the application and medical certificate Ex. W-1 and W-2 the workman admitted having given the application alongwith medical certificate on the asking of Shri K. K. Agarwal, the then branch manager. If this was really the case he should have been taken this stand in his claim statements.

11. It is argued by the representative for the management that had services been terminated on 15-7-78 his name would not have been continued for the entire month of July in the attendance register. Moreover, the appointment of Shri Om Prakash Verma at his place does not arise as he was working in from before and only his appointment was regularised after interview.

12. It is argued that in the interview he was not found fit and had worked for only 54 days and it would be wrong to suggest that on account of any grievance he was not appointed as regular candidate. If Ex. W-2 medical certificate was given at the instance of Shri K. K. Agarwal branch manager this stand should have been taken at the earliest opportunity in the statement of claim and the document summoned. If the workman was really ill and was not coming to work his name should have been continued in the attendance register in the month of August and not discontinued. It can not be denied that the workman was working in the capacity of temporary workman from 23rd May, 78. His services would have been terminated either from 16th July or even from 1st August, 78 deleting the name from the attendance register. In any eventuality and striking out the name would amount to termination as this was without giving the workman 14 days notice or notice pay, the termination would be illegal.

13. There is no question of abandonment of service as to constitute abandonment of service there must be total or complete giving up of duties so as to indicate an intention not to resume the same. Normally such intention can not be attributed to an employee without adequate intention at his part. Even if the workman abstain from giving up the duty on account of illness or otherwise, the management never care to find out the cause of absence by serving a notice on the workman. I am supported in my above view the law laid down in G. P. Lad Vs. Export Fibres of India Limited 1979 S.C. Cases L&S page 76

14. 14 days pay on the date of termination whether it was on 16th July, 78 or on 1st August, 78 when the name of the workman was deleted from the attendance register would have concluded the matter. Termination of any workman without notice as required under para 522.4 of Shastri Award would be illegal and the workman will be entitled to be reinstated with full back wages.

15. I accordingly hold that the action of the State Bank of India in terminating the services of Shri Govind Saran Verma w.e.f. 15-7-78 is not justified and is void abinitio.

16. The result is that the workman is entitled to be reinstated with full back wages

17. I, therefore, give my award accordingly.

R. B. SRIVASTAVA, Presiding Officer

18. Let six copies of this Award be sent to the Government for publication.

Dated : 3rd July, 1985.

R. B. SRIVASTAVA, Presiding Officer

[No. L-12012/142/82-D.II(A)]

नई दिल्ली, 3 जुलाई, 1985

का. अ. 3808.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, भारतीय स्टेट बैंक के प्रबंधन से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निश्चित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधि-करण, कानपुर के पंच.ट को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-7-1985 को प्राप्त हुआ था।

New Delhi, the 26th July, 1985

S.O. 3808.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur, as shown in the Annexure in the industrial dispute between the employers in relation to the State Bank of India and their workmen, which was received by the Central Government on the 16th July, 1985.

BEFORE THE PRESIDING OFFICER SHRI R. B. SRIVASTAVA CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL KANPUR

Industrial Dispute No. 11 of 83

In the matter of dispute between :

Shri Ram Deo Tewari, C/o Shri O. P. Nigam, 295/387, Deen Dayal Road, Ashrafabad, Lucknow—Workman.

AND

The Regional Manager, Region NI, State Bank of India, Commercial Exchange Building, 24 Mahatma Gandhi Marg, Lucknow—Management.

PRESENT :

Shri O. P. Nigam representative—for the workman and Shri Mahesh Chandra—for the management.

AWARD

1. The Central Government, Ministry of Labour vide its Notification No. L-12012/287/81-D.II (A) dated 10/15th June 1982, has referred the following dispute for adjudication :

Whether the act on of the management of State Bank of India, Ashok Marg, Lucknow in terminating the services of Shri Ram Deo Tewari, Armed Guard, w.e.f. 20-12-80 is justified? If not, to what relief the workman concerned is entitled?

2. The case of the workman is that he is a retired personnel of C.R.P.F. and was appointed in the management in its Ashok Marg Branch, Lucknow as armed guard on 20-5-80. His appointment was made on clear permanent vacancy of Vth Guard and the continuously worked for more than 7 months when his services abruptly terminated on 23-12-80 without assigning him any reason and without giving him notice or notice pay.

3. It is further averred that he was never given any appointment letter nor termination letter. At the time of giving appointment it was made clear that there was a clear vacancy of permanent guard and that the appointment was not made on condition that the fourth vacancy will be filled by regular appointment after calling names from the employment exchange. That after the termination of the services of the workman several other persons were appointed in his place and their services were also terminated after some time. That as per provision of awards appointments made in clear vacancy should be confirmed within six months and since the appointment of the applicant was made and he had worked on the clear vacancy for more than 7 months he

should be deemed as confirmed as arm guard. That even if the termination was proper he should have been given a notice or notice pay in lieu of notice but nothing was done. As the termination of the applicant was unjust and illegal the workman is entitled to be reinstated with full back wages.

4. The management raised preliminary objection that no demand was made, hence no valid industrial dispute and reference is illegal. The workman had applied for the post of temporary badli guard at State Bank of India, Ashok Marg Branch, Lucknow and he was appointed as temporary badli guard against purely casual temporary adhoc requirement arising out of leave or absences of regular permanent arms guard. Pending appointment for regular bank guard through the employment exchange as regular appointments usually take considerable time. The services of the workman as temporary badli guard was terminated as no longer required. The total number of days when the workman worked between 30-5-80 to 20-12-82 were 174 days. It is further averred that a badli guard is deemed to be employed on the day he actually given duty and will have no other right including any claim for regular appointment, and that no provision of the I.D. Act relating to retrenchment was either attracted or violated. It is admitted that no appointment letter or termination letter was given to the workman. It is stressed in the W.S. that since regular appointment involves time and guard duty being of continuous nature suitable alternative arrangement to meet the urgent requirements had made by the management. The management has denied other contention of the workman.

5. In rejoinder the workman has drawn my attention to the definition of the badli guard given in explanation to section 25(c) of the act which lays down ;

A Badli workman means, a workman who is employed in an industrial establishment in place of another workman whose name is borne on the muster roll of the establishment but shall ceased to be regarded as such for the purposes of this section if he has completed one years of service in that establishment.

6. The workman representative has further referred the staff circular No. 168 of 1976 and staff circular 1977 which lays down :

that no temporary employment should be made for a period exceeding 90 days and the other says that temporary and badli guards may not be permitted to work for more than 180 days which is a unfair labour policy.

7. The workman has also filed the failure report of the conciliation officer in this case.

8. The management has filed the application of the workman dated 20-5-80 Ext. M-1 which shows that the applicant having come to know that post of temporary badli guard was vacant in the bank applied for appointment. The applicant moved an application on 30-3-80 demanding his wages for the days of weekly rest but he was not paid treating that as day of no duty.

9. The management has filed two circular I No. 168/76 and the other is numbered 177/78, admitted by the workman and the workman has submitted a list of working days which too has been admitted by the management. According to the contention submitted and admitted by the management during period 2-5-80 to 23-12-80, the workman worked for 174 days with total breaks of 44 days in that period. If this intervening period of breaks are also counted as continuous service the total period of working days would be 218 day.

10. On behalf of the management one Sushir Chandra Gupta has given his affidavit evidence justifying the case set out in the written statement. In cross examination he has admitted that here is 24 hours duty of guards and there are three guards working eight hours and there is 14th guard known as badli guard to take over with any one of them when one is on leave. He gets three days work in a week. He has deposed that the total work done by the workman is 176 days in 7 months. He has further deposed that he is working as badli guard when ever any guard was on leave and there was no permanent vacancy

on which the workman was kept. That at the time of his appointment two permanent guard namely Ram Gopal and Om Bahadur were working and one temporary guard Shri Kripa Shanker was there and prior to 20-5-80 Narbahadur Bhagat Raj and Kripashanker were working as temporary guards and their appointment was made on 3-4-80. He goes on to state that Bhagat Raj worked upto 18-5-80. Narbahadur worked upto 16-8-80 and Himmat was appointed as temporary guard on 24-2-80 and worked as such upto 20-4-80. As regards permanent strength of guards at Ashok Marg Branch, Lucknow, of the management bank, he given the number as four and on the date 20-5-80, when Ram Deo Tewari workman was appointed. Permanent guard Ram Bahadur and Om Bahadur were there and two temporary persons working to complete the quorum of persons and they were workman and one other. From that it is evident that the workman was appointed as temporary guard in place of vacancies of a permanent guard. The witness admitted that one Dilip Singh temporary guard appointed on 26-8-80 worked upto 13-12-80 as is evident from the record. In the end he admitted that from the temporary badli guard they take the work as substitute when permanent guards are on leave or sent to newly branches till further recruitment is made. The witness admitted that during the period from 20-5-80 to 23-12-80 Om Bahadur permanent guard was asked to do messengerial duty during the banks hours and he worked in Government counter section on the post of said messengerial duty and not as guard. Thus out of the two permanent guards Ram Bahadur and Om Bahadur one permanent guard was permanently given duty during banks hours at the Government counter and with one permanent guard and three temporary guards namely S/Shri Kripa Shanker, Ram Deo Tewari (concerned workman) and Dilip Singh round the clock 8 hours duty was taken. Out of the above four Dilip Singh worked as Badli guard in the leave of all other guards.

11. The management has admitted this position that the workman was not working as badli guard but as temporary guard, before the Assistant Labour Commissioner (Central) vide appendix I filed alongwith the affidavit of the workman, therefore, it was admitted as follows :

As the workman was employed as substitute badli guard as the branch was short of one guard in the concerned branch pending appointment of regular guard from the employment exchange in accordance as prescribed recruitment procedure.

12. The workman in his affidavit has averred that when the services of the deponent were terminated there were still permanent vacancies existing which was filled up by another temporary employee and that the deponent was given artificial breaks for a day or two deprive him from the legal right for being confirmed on the post after six months.

13. On requisition by the workman the management filed banks circular No. 168 dated 9th September, 1976 This circular was as sequence of the off quoted judgment of Sundar Money of 1976 that continuous services of 240 days in a year in case of temporary employees terminated would constitute to retrenchment for the purposes of retrenchment compensation and if not paid the termination would be illegal and they would be deemed to be in continuing in service.

14. Per this circular the banks were advised to dispensed with temporary employees who have not completed 240 days services. In para three of this circular it was mentioned as follows :

In this connection we further clarify that badli appointments are appointment made on daily basis can not be treated at different footing from other temporary appointment and even those who have completed 240 days service in a period of 12 calendar months as badli guard would be eligible for the benefit of sec. 25F of this Act.

This notification clarifies that these badli guards were not different from temporary appointment and were entitled to the benefits of Chapter VB which incorporates Sec. 25F etc.

15. In 1978 another circular No. 77 was issued to remove difficulties in smooth function arising out of the circular No. 168 of 76 referred above. In this it was mentioned in

para 2(a) giving permissible limits for temporary appointment as follows :

Where the sanctioned strength is three and above but not more than five one substitute may be permitted for two temporary vacancy.

16. In the instant case the permanent vacancy of guard was four but only two permanent guard were there namely S/Shri Ram Bahadur and Om Bahadur. In circular No. 74 of 78 which provided the guide line of the temporary employee engaged in subsequent order and further that in view of staff circular No. 81 of 77 temporary/badli guards may be permitted to work for a maximum period of 180 days in a year. It was probably in compliance of circular No. 81 of 77 that the services of the workman were not allowed to complete 180 days when he was on the verge of completing the same and has completed 174 days actual work.

17. Staff circular No. 147/80 is to the effect that in case of temporary appointment an application should be obtained from the person appointed that he had not worked previously in the bank even for a single day. It was in pursuance of this circular that the management had obtained Ext. M-2 on the date of appointment that he had not worked in any of the branches of the bank.

18. To employee a workman as badli guard or as casual or temporary workman with the object of depriving them of status privileges of permanent workman is unfair labour practice.

19. Para 20.7 of the first bipartite settlement 1976 lays down that :

a temporary employee will mean a workman who is appointed in a temporary vacancy caused by absence of a particular permanent workman.

20. Para 20.8 of the said bipartite settlement lays down :

that a temporary workman may be appointed to fill a permanent vacancy provided that such temporary appointment shall not exceed a period of three months during which the bank shall make permanent arrangement for filling up vacancies.

21. Thus in any view of the matter the workman was temporary employee of the bank and was working temporarily on a permanent post.

22. On the point of demand notice by workman ruling Sadhu Ram Vs. Delhi Transport Corporation 1983 II LLJ page 383 has been cited before me which lays down :

Where a question arose whether to constitute an industrial dispute demand by workman was necessary. It was held by the Supreme Court as follows :

There was conciliation proceeding. The conciliation had failed and conciliation officer had so reported to the government. The government was justified in thinking that there was an industrial dispute and referring it to the labour court.

Similarly in Shambhoo Nath Goyal Vs. Bank of Baroda 1978 I LLJ it was held :

making the demand for reinstatement is not a sign of sine qua non for an industrial dispute to come into existence to insist on such a procedure would tantamount to ride the section on facts till there was a demand made from the management for reinstatement.

23. It has been argued by the representative for the management that bipartite settlement does not apply to the State Bank of India as the same was not represented by any of the Association or Federation. Even if that be so Shastri and Desai awards were applied and even in that terminology a badli guard would only be a temporary employee even if given the name of substitute.

24. It is common ground that the workman being a temporary employee was never given an appointment letter nor termination letter which is an infringement of para 495 of

the Sastri Award. Further none of the direction for temporary employee were applied by the management namely neither service record nor list of temporary employees to enable compliance of principal of last come first go. Further the termination of an employee before completion of 180 days in compliance of circular 81 of 77 without any just cause is itself an unfair labour practice. Admittedly no notice or notice pay was given to the workman.

25. In these circumstances for non compliance of above labour laws the termination of the workman would be illegal and the workman will be entitled to be reinstatement with full back wages.

26. I am supported in my view on the law laid down in Kapoorthala Central Cooperative Bank Limited Vs. Presiding Officer, Jabalpur 1984, Lab. I.C. page 974 wherein it was held :

termination of service of an employee on verge of their completing 240 days with national breaks other persons employed in their place work—to satisfactory, action of the employer is unfair labour practice-ordering of reinstatement is justified.

27. As observed earlier in the instant case on account of non compliance of Sec. 25G and H of the I.D. Act, of the termination would be illegal as temporary employee Dilip Singh appointed termination on 26-7-80 was allowed to continue till 31-12-80, i.e. even after termination of the workman.

28. Thus in view of the law laid down in M/s. National Iron and Steel Company Limited Vs. State of West Bengal and another 1967 II LLJ 23 S.C. page 30 it was held therein :

Incidentally it may also be pointed out that the retrenchment of Sushil does not seem to be otherwise justified in that following the principle of Last come First go Sushil could not be called upon to leave, the company's service. Another employee by name of Joy K'shan junior to Sushil was retained in service.

29. I, therefore, taking into consideration entire facts, circumstances and evidence of the case hold that the action of the management in terminating the workman is illegal and the workman is entitled to be reinstated with full back wages.

30. I accordingly give my award.

R. B. SRIVASTAVA, Presiding Officer

Let six copies of this award be sent to the government for publication.

R. B. SRIVASTAVA, Presiding Officer

[No. L-12012/287/81-D.II(A)]

का प्र. 3809.—प्रौद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, स्टेट बैंक ऑफ बिकानेर एंड जयपुर के प्रबंधन से सम्बद्ध नियोजकों और उनके कर्म-कारों के बीच, अनुबंध में निदिष्ट प्रौद्योगिक विवाद में प्रौद्योगिक अधि-करण, जयपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-7-85 को प्राप्त हुआ था।

[सं. एल-12012/246/82-डी 2 (ए)]

S.O. 3809.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Jaipur as shown in the Annexure, in the industrial dispute between the employers in relation to the State Bank of Bikaner and Jaipur and their workmen, which was received by the Central Government on the 12th July, 1985.

[No. L-12012/246/82-D.II(A)]

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर

केस नं. सी. आई. टी. 7/83

केन्द्रीय सरकार अथ मंत्रालय की अधिसूचना सं. एल 12012/246/82/III (ए) दिनांक 28-6-83

राज. बैंक इम्प. यूनियन, जयपुर

बनाम

स्टेट बैंक आफ बीकानेर, जयपुर

उपस्थिति

संघ की ओर से:

श्री रामलाल खण्डेलवाल

नियोजक की ओर से:

श्री टी. एन. टन्डन

दिनांक प्रवाद:

22-11-84

प्रवाद

केन्द्रीय सरकार निम्नलिखित विवाद इस न्यायाधिकरण के बास्ते निपटारा अपनी अधिसूचना सं. एल 12012/246/82/III (ए) दिनांक 28-6-83 के द्वारा औद्योगिक विवाद अधिनियम, 1947 की धारा 10(1) के अंतर्गत भेजी है।

"Whether the action of the management of State Bank of Bikaner and Jaipur, in relation to their Dungarpur Branch in terminating the services of Shri Komal Kant, Subordinate Staff in January, 1976 is justified? If not, to what relief is the workman concerned entitled?"

अधिकतम श्री रामलाल खण्डेलवाल उपस्थिति बैंक की ओर से श्री टी. एन. टन्डन उपस्थित।

प्रार्थी ने आवेदन प्रस्तुत किया कि उसका चयन बैंक द्वारा ही गया। जो सेवा में लेने को तैयार है और 'नो डिस्प्यूट प्रवाह' जारी किया गया। प्रार्थी हमसे सहमत है। अतः जो 'नो डिस्प्यूट प्रवाह' जारी किया जाता है। जो प्रकाशनाई भेजा जाये।

श्रीमति मोहनी कपूर, न्यायाधीश,

का. मा. 3810:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ बीकानेर एंड जयपुर के प्रबंधन से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, जयपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-7-85 को प्राप्त हुआ था।

S.O. 3810.—In pursuance of section 1-7 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jaipur, as shown in the Annexure in the industrial dispute between the employers in relation to the State Bank of Bikaner and Jaipur and their workmen, which was received by the Central Government on the 12th July, 1985.

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर

केस नं. सी. आई. टी. 9/83

केन्द्रीय सरकार अथ मंत्रालय की अधिसूचना सं. एल 12012/312/82/III (ए) दिनांक 25-7-83

राज. बैंक एम्प., यूनियन, जयपुर

बनाम

स्टेट बैंक आफ बीकानेर एंड जयपुर

उपस्थिति:

संघ की ओर से:

श्री रामलाल खण्डेलवाल

नियोजक की ओर से:

श्री टी. एन. टन्डन

दिनांक प्रवाद:

21-11-84

प्रवाद

केन्द्रीय सरकार निम्नलिखित विवाद इस न्यायाधिकरण के बास्ते निपटारा अपनी अधिसूचना सं. एल 12012/312/82/III (ए) दिनांक 25-7-83 के द्वारा औद्योगिक विवाद अधिनियम 1947 की धारा 10 (1) के अंतर्गत भेजी है:

"Whether the action of the management of State Bank of Bikaner and Jaipur, Jaipur relation to its Mandigarh Branch in terminating the services of Shri Mahendra Kumar Sen, in April, 1976 is justified? If not, to what relief is the workman concerned entitled?"

श्री रामलाल खण्डेलवाल मय अधिक उपस्थित (बैंक की ओर से श्री टी. एन. टन्डन उपस्थित। प्रार्थी ने आवेदन प्रस्तुत किया कि बैंक ने उसका चयन कर लिया है और सेवा में लेने को तैयार है इसलिए 'नो डिस्प्यूट प्रवाह' दिया जाय। बैंक के प्रतिनिधि सहमत हैं। अतः जो डिस्प्यूट प्रवाह जारी किया जाता है जो प्रकाशनाई भेजा जाय।

श्रीमति मोहनी कपूर न्यायाधीश,
[सं. एल 12012/312/82-डी 2 (ए)]

नई दिल्ली, 29 जुलाई, 1985

का. मा. 3811:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बलिया क्षेत्रीय ग्रामीण बैंक के प्रबंधन से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-7-85 को प्राप्त हुआ था।

New Delhi, the 29th July, 1985

S.O. 3811.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure in the industrial dispute between the employers in relation to the Ballia Kshetriya Gramin Bank and their workmen, which was received by the Central Government on the 19th July, 1985.

BEFORE SHRI R. B. SRIVASTAVA PRESIDING OFFICER CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, KANPUR

KANPUR

Industrial Dispute No. 217/1984

In the matter of dispute between:

Shri Vinod Kumar Tewari, C/o Shri N. C. Pande, C-323 Gurutej Bahadur Nagar, Kareli, Allahabad.

AND

The Chairman, Ballia Kshetriya Gramin Bank, Town Hall Road, Ballia.

Shri Mangalvadekar representative—for the workman.
Shri P. Viswas, representative—for the management.

AWARD

1. The Central Government, Ministry of Labour, vide its Notification No. L-12012/114/84-D.II (A) dated 28th November, 1984, has referred the following dispute for adjudication:

Whether the action of the management of Ballia Kshetriya Gramin Bank, Ballia, in relation to their sister Branch, District Ballia, in terminating the service of Shri Vinod Kumar Tewari, Ex-Cashier-

cum-clerk with effect from 25-9-82 and not considering him for further employment under section 25H of the I. D. Act is justified? If not, to what relief is the workman concerned entitled?

2. The workman filed his statement of claim through his authorised representative ascertaining that he entered in the respondent bank's service on 15-5-81 as cashier and worked in three spell 15-5-81 to 12-8-81, 28-8-81 to 29-9-81 and 16-6-82 to 29-9-82. It is further alleged that during the period from 17-6-82 to 25-9-82, no salary was paid to him and for 1st and 2nd August, 82, as first August was Sunday and he was not permitted to sign the attendance register for 2-8-82. Thus in span of one year he had put in total 223 days of service and in between the period from 17-6-82 to 25-9-82 he had put in service of 100 days. It is further averred that even though permanent vacancy was existing and the workman was doing work of permanent nature when his services were abruptly terminated on 25-9-82, and in the vacancy caused by the termination or the workman four persons were appointed to the period mentioned below :

(a) Shri R. K. Srivastava 18-12-82 to 15-1-83 and
27-01-83 to 31-1-83

(b) Shri. Sadanand Tewari 2-02-83 to 03-3-83
3-5-83 to 26-03-83
28-4-83 to 30-5-83

(c) Shri Dilasa Ram 5-04-83 to 03-5-83
and ultimately Shri S. N. Singh was appointed from 1-6-83 on permanent basis. Further the workman should have been given one month's notice, notice pay or retrenchment compensation before his termination and in this way provision of section 10.2 (a)(b) of the Staff Service Regulation of Ballia Kshetriya Gramin Bank, 1980 are not followed by the management. It is further averred that as the work was there and the workman was not given an opportunity, provision of section 25-G and H of the I. D. Act were infringed. In the end it is prayed that the termination be held illegal, unjust and unfair labour practise and the workman be reinstated with full back wages.

3. The management has contested the claim petition of the workman on the grounds that the employment of the workman during the whole period was according to the terms of the employment for specified period with intermittent employment and has no continuous employment in any year or even totally in the year was 240 days or more. According to the management he worked for 123 days in the year 1981 and after a break of about 9 months he worked only for 98 days in the year 1982. That the automatic termination by efflux of time does not give rise to any dispute and hence section 2-A is not attracted.

4. Parties filed documents alongwith their affidavit and stated that they agreed that there is not much dispute of the facts which is already admitted. It is further stated that they have not to adduce any oral evidence and admit the documents filed by either parties of them. The workman filed four appointment letters which were admitted and marked as exhibit W-1 to W-4. On the date of argument the representative for the management Shri P. Biswas raised an objection that the statement of claim was not signed and verified by workman hence that was not a proper statement of claim and is liable to be rejected as the same was filed by the authorised representative and further he drew my attention to the rule 29 of the I. D. Act which lay down that "a representative of the parties shall have right to examine, cross-examine and address the Tribunal when evidence has been called." He argued that the statement of claim filed by the workman was not in consonance with rule 10B of I.D. Act.

5. Under sec. 2-A of the I. D. Act wherein employer discharges, dismisses, retrenches or otherwise terminates the service of any individual workman. Any dispute or differences between the workman and his employer connected with, on a rising out of their such discharge, dismissal retrenchment or termination shall be deemed to be as industrial dispute notwithstanding no other workman or any other union is party to the dispute.

6. Termination by efflux of time will also come within the definition of termination which will be deemed retrench-

ment as retrenchment amounts to termination for any reason whatsoever which includes termination by efflux of time. Thus the termination of the workman was retrenchment and was a valid industrial dispute. Industrial Dispute Central Rules requires that a proper application of the workman to the government for reference of industrial dispute for which a form is given in appendix (A) was to be filled, in view of provision of rule 3 and that the application and statement was to be signed by the workman himself, in the case of termination under section 2-A in view of provision of rule 4-C of the said Central rules. After the reference made by the government procedure to be followed before the Labour Tribunal to whom reference is made is given in amended section 10-B of the said rules which come into effect from 18-8-84. In the instant case reference was made after the said date. It lays down that while referring the industrial dispute for adjudication to Labour Tribunal the Government shall direct the parties raising the dispute to file a statement of claim with all relevant document within 15 days. The opposite party is not required to file any statement of claim on that stage. It is under rule 10B(2) that the Tribunal after ascertaining that copies of statement of claim are furnished to other side by the party raising a dispute and the other party shall then file their written statement together with documents. Under rule 10B-4 it is also laid down that it is the party raising the dispute who may submitted rejoinder to the written statement with a copy of the same to the opposite party. In nutshell the procedure envisaged in the amendment rule is that all procedure invoked in civil court of filing applications, written statement and plaint and rejoinder. Hence the dispute has been referred to the Industrial Tribunal, the workman may himself or through his authorised representative filed the statement of claim. There is nothing in rules as given in rule 4 that the workman himself alone may sign the statement of claim.

7. Representative for the management has drawn my attention to the ruling B. K. Sharma Vs. State of U. P. L&S 1092, wherein it was held :

In the instant case the lower court has recorded a finding that the petitioner was employed for a fixed period of time with condition that his right to continue in service would automatically come to an end on the expiry of that period and as such the employer did not discharge, dismiss retrench or terminate the petitioner's service I find no error in the view taken by the labour court.

8. The above case was decided on 27-11-75 and on 16th January, 76 the off quoted judgment of Supreme Court was given by S. C. in State Bank of India Vs. M. Sunder Money 1976 S.C. (L and S) page 132 wherein it was held :

In section 2(oo) the words "termination.....for any reason whatsoever" are the key words. Whatever the reason every termination spells retrenchment. A termination takes place where a form expires whether by the active step of the master or the running out of the stipulated term. To protect the weak against the strong this policy of comprehensive definition has been effectuated. Termination embraces not merely the act of termination by the employer but the fact of termination howsoever produced retrenchment means to end, conclude case.

9. Thus in the instant case even though the termination of the workman was caused by efflux of time it would be termination and would be covered under the definition of I. D. Act.

10. My attention was drawn to staff service regulation Ballia Kshetriya Gramin Bank which regulation was framed in exercise of powers conferred by section 30 in the Regional Rural Banks Act 1976. Section 30 of the said act lays down as follows :

The Board of Directors of a Regional Rural Bank may after consultation with the Sponsor Bank and the Reserve Bank of India and with the previous sanction of the Government, make regulations, not in-

consistent with the provisions of this Act and the rules made thereunder to provide for all matters for which provisions is necessary or expedient for the purpose of giving effect to the provisions of this Act.

The regional rural bank goes from the regulations given overriding effect on the I.D. Act, 1947 which consists special legislation to protect the working class. The regulation 4 of the above said S.S.R. gives power to the Chairman to appoint temporary hands and for a period not exceeding from 90 days regulation 10(2)(ii) laid down that the bank may terminate the services of an employee after giving him one months notice or pay in lieu thereof. It has not been shown that this applies only to permanent servants of the gramin bank and not to other temporary employees. That if the bank intended to terminate the services of the workman one months notice or pay in lieu of notice should have been given.

11. Even conceding that the workman had not completed 240 days in span of one year or he had completed 98 days of working in 82 and should have been considered for continuance of service and not terminated from 25-9-82 when the work was there as is evident on fact that one Shri R. K. Srivastava was appointed on 18-12-82 which work was taken up by Shri Sadanand and Dilasa Ram and ultimately by permanent employment of Shri S. N. Singh. The management did not comply with the provision of section 25H of the Act which lays down that even if the retrenchment by efflux of time was necessary he should have been reemployed on 18-12-82 and not Shri R. K. Srivastava. Section 25H of the I. D. Act being mandatory the effect of the non-employment would be that his retrenchment would be deemed illegal and he would be deemed to be in continuing in service.

12. In the case of British India Corporation Vs. Labour Court 1978 Lab. I C page 523 Allahabad H. C. wherein it was held :

Retrenchment of Chowkidar—Re-organisation of Business—appointment of new chowkidars without offering opportunity to retrenched workman for re-employment held that employer contravened mandatory requirement of section 6 Q of U. P. I. D. Act retrenchment not bonafide workman entitled to reinstatement.

13. I accordingly hold that the action of the management of Ballia Kshetriya Gramin Bank, Ballia in relation to their sister branch in terminating the services of Shri Vinod Kumar Tewari Ex. cashier-cum-clerk w.e.f. 25-9-82 and not considering him for further employment u/s 25H of the Act is not justified as the work was there in the bank as is evident from the subsequent employment of other workmen.

14. The result is that the termination being illegal the workman will be deemed to be in service and will be entitled to full back wages.

15. I, therefore, give my award accordingly.

R. B. SRIVASTAVA, Presiding Officer

Let six copies of this award be sent to the Government for publication.

R. B. SRIVASTAVA, Presiding Officer

[No. L-12012/114/84-D.II(A)]

का. मा. 3812:—औद्योगिक विवाद अधिनियम, 1947 (1947 की 14) की धारा 17 के अनुसूचन में केन्द्रीय सरकार, भारतीय स्टेट बैंक के प्रबंधन से सम्बद्ध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कामपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-7-85 को प्राप्त हुआ था।

[सं. एल 12013/82/83-डी. 2 (ए)]

एन. के. वर्मा, डेस्क अधिकारी

S.O. 3812.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure in the industrial dispute between the employers in relation to the State Bank of India and their workmen, which was received by the Central Government on the 19th July, 1985.

BEFORE SHRI R. B. SRIVASTAVA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, KANPUR

Industrial Disputes No. 251/83

In the matter of dispute between :

Shri Pramod Kumar Srivastava, C/o Shri Harmangal Prasad 36/1 Kailash Mandir, Shivala, Kanpur.

AND

The Chief General Manager, Halwasi Place, State Bank of India, 24, M. G. Marg, Hazrat Ganj, Lucknow.

PRESENT :

Shri V. N. Sekhari, representative—for the workman.

Shri A. S. Saxena, representative—for the management.

AWARD

1. The Central Government, Ministry of Labour, vide its notification No. L-12012/82/83-D-II(A) dated 20th December, 1983, has referred the following dispute for adjudication :

Whether the action of the management of State Bank of India, Lucknow in relation to their Bhognipur branch, District, Kanpur in terminating the service of Shri Pramod Kumar Srivastava, Temporary Messenger w.e.f. 31-5-82 is justified? If not, to what relief is the concerned workman entitled?

2. The workman Shri Pramod Kumar Srivastava was admittedly engaged on 4-3-82 and his services were terminated on 31-5-82 after putting service of 89 days. According to the management the workman was engaged as casual labour on daily wages. The management admits that the workman was engaged as temporary hand for temporary and casual jobs at Bhognipur branch of the bank management which includes the work of sprinkling of water, clearing of table and chairs and record room etc. He was not engaged against any vacancy including leave vacancy and that he accepted the termination, settled his all accounts finally and accepted his all dues and wages. He did not challenge the termination or raised any demand for reinstatement. It is further admitted that no appointment letter or termination letter was given to the workman and in this way provision of paras 495 and 522 of Sastri Award were not violated and no demand was ever raised by the form for appointment. It is not denied that one Mahendra Singh Kushwaha was appointed from 29-5-82 to 25-8-82 and after the termination of the said Mahendra Singh Kushwaha one Suresh Kumar was appointed from 1-9-82 to 28-11-82. As it was the practice of the management to appoint persons for a period of 89 days and terminate them after 89 days which is a unfair labour practice.

3. The management has admitted the appointment of Mahendra Singh but has alleged that his appointment was made against seasonal requirements at the branch for sprinkling water on Khus and providing water to the staff and customers when the workman was already in service and in the same way Shri Suresh Kumar was also appointed temporarily casual and not against any permanent vacancy. The workman in his statement of claim has averred that provision of section 25G and H of the I.D. Act read with rules 77 and 78 of the I.D. Act (Central Rules) were not complied with, hence the termination of the workman is illegal. The workman has, therefore, prayed for reinstatement with full back wages.

4. The management has averred that in view of the casual appointment provision of Section 25-H of the I.D. Act are not attracted and that the termination of the workman will not amount to retrenchment.

5. The workman in his rejoinder averred that there was no category of casual workman in the banking industry.

6. On behalf of the management Shri R. C. Khatia, an officer of the bank management of the S.B.I. has given his affidavit supporting the case of the management set out in the written statement. In cross examination he has admitted that he never worked at Bhognipur branch of the management where the workman was working. He has no personal knowledge about most of the things at Bhognipur branch. I am not able to say if the workman was daily rated worker or getting regular scale. He has however, admitted that after the termination of the workman's service some persons for casual job were appointed. He has also admitted that when the workman was working one casual labour was appointed on 25-5-82. He further admitted that when the workman was terminated some casual boy as temporary were working. He further admitted that messengers of the bank or members of the sub staff of the bank were transferred to other branch of the bank. He expressed his ignorance to the question if the workman worked as peon or messenger in the bank. He admitted that clearing work of desk, table and chair of the bank is done by Farrash who is a regular employee of the bank. He has further admitted that bank has opened branches in Kanpur after May, 1982. He has admitted that the management and branch manager have instructions from the personnel department of local head office that casual employee may not be permitted to work more than 90 days and not to give appointment again to those employee who had worked in the bank. He later on resiled that there were instruction that no temporary appointment should be given who had already worked for more than 90 days. He further expressed his ignorance that whether there was any record of the temporary employees.

7. On the other hand the workman supporting his claim statement by giving his affidavit evidence stated in cross examination that he worked as messenger in the management branch from 4-3-81 to 31-3-85. He has deposed that he was paid regular rate at the rate of Rs 235 plus D.A. and was not paid on daily rated and he used to get his pay from the salary register and not by voucher. He narrated what work he did which show that the work was taken from him which was work of a regular peon. He has denied that he ever sprinkled water on Khush Ki Tatti. He has also deposed that he was appointed against permanent vacancy created on the transfer of one Shri Gopal Singh to Moosanagar Branch of the bank 12 days earlier. The said Gopal Singh was not working as Guard but in emergency he used to work as guard otherwise he used to work as office peon. He has deposed that one Atar Singh Canteen Boy used to sprinkle the water on Khush and used to give drinking water to the staff as well as customers and he was working as water boy. He has admitted that though no letter of termination was given to him he did not raise any objection to his termination in writing. He has been visualising bank even after termination as he was told by bank manager that on account of some circular his services were terminated.

8. On the point of preliminary objection that no demand was made there is no dispute that efforts by way of conciliation were made before A.L.C. (Central) and if the management was desirous to prove its case that could have been done before A.L.C. (Central).

In Case of Sadhu Ram Versus D.T.C. 1983 II LLJ page 383 on a question "to constitute industrial dispute, whether demand by the workman necessary before going to conciliation failure of conciliation report by officer to Government were sufficient to give a right held as follows :

There was conciliation proceeding the conciliation failed that conciliation officer so reported to the Government. The government was justified in thinking that there was in industrial dispute and referring it to the labour court.

The management has always insisting that the workman was a casual worker and his services were done away, that his services were no more required.

9. The representative for the workman has argued that there is no category of employee for casual work thus persons who are appointed for casual nature of work have also been designated as temporary in the definition given in para 20.7 of the bipartite settlement. Even such temporary employees who have been appointed for a limited period for work have been given a status under the I.D. Act and under Sastri Award. The direction given under Sastri Award which are still binding on the parties is that even temporary employees should be given appointment letter in writing and also termination letter. That the register of retrenched employees should be maintained as given in para 495 of the Sastri Award and that retrenchment of superfluous workman should be on the principal of last come first go as given under para 507 of the Shastri award. No officer of the management has come to say that the workman was not paid on monthly wages but was paid by cash voucher and that his nature of duties was not that as proposed by the workman. It is the nature of the duties which will show that whether the work is of temporary or casual nature. It is admitted that a couple of days before termination another person was appointed on 29-5-82. If really it was necessary for the management to terminate the temporary employee it was he who joined on 25-9-82 who should have been terminated and not the workman.

10. In the case of Swadesh Mitra Limited Vs. their Workman 1960 1 LLJ page 504 Supreme Court wherein it was held :

The management has right to retrench the workman provided retrenchment is justified. In effecting retrenchment normally has to adopt and given effect to industrial rule of retrenchment for valid reason it may depart from the said rule if the departure of the said rule does not appear to the tribunal as valid or satisfactory. Thus the action of the management in so departure from the rule can be treated by the tribunal as malafide or as amounting to unfair labour practice.

It was further observed in the above said case:

This court has consistently held that in case of wrongful dismissal, discharge or dismissal or retrenchment, a claim for reinstatement can not be defeated merely because time has lapse or that the employer has engaged fresh hands.

11. In the case of Gaffar and others Vs. Union of India and others, Respondent 1984 LAB IC 645 wherein it was held.

Rule 77 requiring maintenance of seniority list of workmen has been included by the rules so that the object of sec. 25G of the Industrial Disputes Act effectively achieved. The minimum time of seven days allowed for this purpose is not unnecessarily long for, the workman should get an adequate opportunity to scrutinise the correctness of the seniority list before he is thrown and viewed from this angle. It should be held that the requirement mentioned in rule 77 is mandatory and its violation renders an order of retrenchment illegal.

12. In the case of Shri Kripa Shanker Vs. Industrial Tribunal 1982 LAB IC Allahabad wherein it was held.

Termination of service found illegal, full back wages must be awarded. Burden to proving gainful employment during period of forced idleness. It is on the employer and not on the workman.

13. In the case of National Iron and Steel Company Versus State of West Bengal, 1967 II LLJ 23 S.C. at page 30 wherein it was observed as follows :

Incidentally it may also be pointed out that the retrenchment of Sushil does not seem to be otherwise justified in that following the principal of last come first go Sushil could not be called upon to leave the company's service. Another employee

by name of Joy Kishan, junior to Sushil was retained in service.

14. It is admitted that new branches were opened and new hands were appointed, hence workman should have been given a change being a retrenched employee in view of provision of section 25H. As early as in 1970 in the case of Shri S. K. Chatterjee Vs. District Signal and Telecommunication Engineer 1970 Lab. IC page 147 wherein it was held

The industrial rule of retrenchment that last come first go as laid down in section 25G is to be applied unit wise and if the rules have not been followed in the retrenchment the workman are entitled to reinstatement.

15. In the instant case, other persons were appointed later and one person who was appointed only three days earlier was allowed to be continued. I am, of the opinion, that all this is unfair labour practice.

16. Thus relying on the testimony of the workman and complying the law discussed above, the termination of the workman would be illegal specially when junior temporary hands were allowed to work.

17. The result is that the termination of the workman is held illegal and the workman will be entitled to be reinstated with full back wages.

18. I, therefore, give my award accordingly.

[No. L-12012/82/83-D.II(A)]

R. B. SRIVASTAVA, Presiding Officer

का. आ. 3813.—औद्योगिक विवाद अधिनियम, 1947, (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, स्टेट बैंक ऑफ़ बीकानेर एण्ड जयपुर के प्रबंधन से सम्बद्ध नियोक्ताओं और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में औद्योगिक अधिकरण, जयपुर के पञ्चाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-7-85 को प्राप्त हुआ था।

[स. एन 12012/270/80-जी 2 (ए)]

S.O. 3813.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Jaipur, as shown in the Annexure in the industrial dispute between the employers in relation to the State Bank of Bikaner and Jaipur and their workmen, which was received by the Central Government on the 18th July, 1985.

CENTRAL INDUSTRIAL TRIBUNAL, RAJASTHAN,
JAIPUR

Case No. C.I.T. 4/82.

REFERENCE :

Desk Officer, Government of India, Ministry of Labour and Rehabilitation, Department of Labour, New Delhi, Order No. L-12012-270/80-D. II-B, dated 6-1-82.

In the matter of an Industrial Dispute.

BETWEEN

Rajasthan Bank Employees' Union.

AND

State Bank of Bikaner and Jaipur

PRESENT :

Smt. Mohini Kapur, R.H.J.S.

For the Union.—Shri R. (L. Khandelwal) and Shri R. K. Yadav.

For the Bank.—Shri T. N. Tandon.

Date of Award : 8-2-85.

AWARD

The Central Government has referred the following dispute for adjudication :

"Whether the action of the management of State Bank of Bikaner and Jaipur, Head Office, Jaipur in relation to its Branch at Chandpole Bazar, Jaipur in awarding the punishment of cancellation of two increments with cumulative effect to Shri Bharat Bhushan Tiwari Cashier under order No. DA/33/19160 dated 12-12-77 is justified? If not, to what relief is the workman concerned entitled."

2. Shri B. B. Tiwari to whom this dispute relates was working as a cashier in State Bank of Bikaner and Jaipur at Chandpole Branch, Jaipur. An incident occurred on 3-12-75 on account of which he was placed under suspension which was followed by the charge sheet dated 2-1-76. The management conducted an enquiry into the allegations against this workman and after giving an opportunity to show cause against the proposed punishment, two annual increments were withheld with cumulative effect from 12-12-77. This penalty has been challenged by the Union which has raised the dispute on behalf of Shri S. B. Tiwari. In the statement of claim a number of pleas have been raised, challenging the suspension of him and thereafter showing that the enquiry held against the workman was not fair and proper. The workman was not given any proper opportunity to produce his defence and he was not supplied with the relevant papers asked by him. His nominee, who was assisting him in the enquiry, could not appear because he was admitted as an indoor-patient in S.M.S. Hospital and the enquiry proceeded in absence of his nominee. It is pleaded that the charges levelled against the workman were absolutely false and baseless when actually the management ought to have taken action against Shri Gandotra who was working as an accountant. It is stated that the workman has been victimised because he approached the Court by filing a complaint against Shri Gandotra for the mis-behaviour. It is pleaded that the workman was first pressurised to drop the matter but as he did not do so, the charge sheet was issued, and when he did not withdraw the criminal case even after the charge sheet was issued to him, the enquiry was hurried up in order to victimise him. Several allegations have been raised against the enquiry officer and others. It is even alleged that his witnesses were pressurised so that they could not give any evidence in the Court. Referring to para 19(6) of the Bipartite Settlement of 1965, it is submitted that only one increment can be stopped by way of penalty and that of too without cumulative effect.

3. It will appear from the statement of claim which has been reproduced in full that the workman has placed emphasis on the unfairness of the enquiry conducted against him. This aspect of the matter has been decided by this tribunal on 12-12-83 and it has been held that the enquiry conducted against Shri B. B. Tiwari is not fair and proper, mainly because his request for adjournment of enquiry on account of illness of his defence nominee was not accepted. The enquiry being unfair and improper, on the management on request was if granted an opportunity to prove the charge against Shri Tiwari before this Tribunal. The facts which form basis of the charges against the workman are relevant, but the workman in his statement of claim has only given an oblique reference to the incident which became the subject matter of the charge sheet against him. I will have to turn to the written statement and the charge sheet dated 2-1-76 for finding out what was the incident which led to some altercation in the bank premises on 3-12-75.

4. The opposite party's contention is that on 3-12-75, the workman B. B. Tiwari behaved in an indecent manner with Shri S. P. Gandotra who was the accountant in Chandpole Branch. First he abused and shouted in the bank hall and on the same evening, Shri Tiwari manhandled Shri Gandotra by catching hold of his necktie and trying to strangle him with physical force with the aid of a few other employees. Why this incident occurred is not mentioned in the written statement and it may be proper to find

out more about it from the charge sheet, Ex. M1. The charge sheet, Ex. M1 reads as under :—

"On the 3rd Aug., 1975 Shri D. D. Sharma, an employee of the Bank's Chandpole Bazar, Jaipur branch had indentified a payee of a payment order for Rs. 15,000 (Rupees fifteen thousand only). When the Branch Manager made some queries from him about the nature of his acquaintance with the payee of the aforesaid payment order, certain discussions took place in a low tone at about 11.00 A.M. between the Branch Manager and the said Shri Sharma. At about 12 noon you came out of your cage (the seat allowed to you for attending to your allotted duties) and on the present of having heard the word 'Crack' alleged to have been used by the Branch Manager towards the said Shri Sharma, you shouted at Shri S. P. Gandotra, for the time being Accountant of the Branch and demanded why no report was being made to the Regional Manager by Shri Gandotra when the Branch Manager was alleged to have used insulting words towards members of the staff. Since you were not personally involved in the incident and the discussions having took place between the Branch Manager and Shri Sharma in a low tone, it is apparent that with an intention to disrupt the smooth running of the branch and to excite members of the staff to join in dislocating smooth functioning of the branch, you abstained from your word and shouted at your superior and thus acted in a manner not expected of a subordinate. This is a gross misconduct under the Bipartite Settlement dated the 19th October, 1966.

2. That about 4.30 P.M. on the aforesaid date, you again started shouting and abusing Shri Gandotra in the branch premises. Since Shri Gandotra was checking ledgers, he kept quiet but a little later he sent for you through a peon. When you came to Shri Gandotra, he enquired why you had been abusing him and officers of the Bank in the afternoon and again in the evening when he was not involved in any incident of that day. On this query, you lost your temper and questioned how Shri Gandotra could make such a query and you immediately caught hold of his necktie and attempted to strangle him. This is gross misconduct under the Bipartite Settlement dated the 19th October, 1966.

3. That while you caught hold of the necktie of Shri Gandotra as per para two above, Shri R. A.

3. That while you caught hold of the necktie of Shri Gandotra as per para two above, Shri R. A. Shukmaria, Shri S. L. Poonwal and Shri S. S. Agarwal caught hold of the person of Shri Gandotra apparently with a view of affording you opportunity to avenge for the complaint(s) made against you to the Regional Manager for your persistent misbehaviour with him. Thus you appear to have conspired with Sarvashri Agarwal and Poonwal to beat and insult your superior official. This is a gross misconduct under the Bipartite Settlement dated the 19th October, 1966.

4. For the forgoing acts of gross misconduct, it is proposed to take disciplinary action against you in terms of chapter 19 of the Bipartite Settlement dated the 19th October, 1966. You are, therefore, called upon to show cause within seven days of the receipt of this letter why disciplinary action should not be taken against you."

5. To simplify the matter, the facts appear to be that on 3-12-75, one employee Shri D. D. Sharma identified a payee of a cheque for Rs. 15,000 and the Branch Manager, Shri S. L. Godika made some queries from Shri D. D. Sharma about the nature of his acquaintance with the payee. Shri S. S. Tiwari, alleged that the Branch Manager had used the word 'crack' towards Shri Sharma and he raised his voice and shouted at Shri Gandotra to make a report against the Branch Manager, to the Regional Manager for having used insulting words towards a member of the staff. On the evening of the

same day he again started shouting and abusing Shri Gandotra in the bank premises. Shri Gandotra was checking ledgers, he kept quiet at that time, but a little later he called Shri Tiwari through a peon to ask why he had been abusing him and officers of the Bank. Shri Tiwari lost his temper and caught hold of Gandotra's necktie and attempted to strangle him. Shri Shukmaria, Shri Agarwal and Shri Roonwal came to assist Shri Tiwari and caught hold of the persons of Shri Gandotra so that Shri Tiwari could have an opportunity of avenging the complaint made against him to the Regional Manager.

6. The answer of the workmen to the charge sheet was that he filed a complaint before the Munsiff and Judicial Magistrate No. 8, Jaipur City against Shri Gandotra for beating him and because of pendency of the criminal case, disciplinary action should not be taken against him. The criminal complaint has not been produced before me but the charges framed in the case against Shri Gandotra shows that he had bitten the thumb of the left hand of Shri Tiwari and the middle finger of the left hand of one Ramwatar and had given blow on ear of Shri Tiwari besides abusing him. This complaint was later on dismissed.

7. The enquiry into the charge against Shri Tiwari has been conducted by this Tribunal. The Bank has been permitted to prove the charges here as the proceedings before the enquiry officer were not fair. The Bank has examined three witnesses before me and they are Shri S. L. Godika, Branch Manager and Shri S. P. Gandotra, Accountant and one Mr. Beg. Shri Godika has stated that on 1-11-75 the accountant showed him a cheque for Rs. 15,000 where signature of the payee had been attested by Shri D. D. Sharma. As the amount was quite substantial he made personal enquiry from Shri Sharma in a low tone but Shri Sharma flared up and started talking in an insulting manner. He (Shri Godika) went to his cabin and observed that Shri Sharma, Shri Roonwal and Shri Ajmera employees were engaged in loud discussions criticising the officers. After some time Shri Tiwari came out from the cash cage and started abusing Shri Gandotra saying that he (Shri Gandotra) complains to the Regional Manager about the rude behaviour of the staff, but keeps quiet when the Branch Manager has used improper words against the staff. Shri Tiwari was extremely excited and beyond control and was taken away to his cash cage by other members of the staff. At about 4.50 or 5.00 p.m. he heard noise in the bank, hall and knew that Shri Tiwari was holding the necktie of Shri Gandotra and Sarvashri Roonwal, Bhukmaria and Agarwal were holding Shri Gandotra's person and the shirt. Shri Gandotra was trying to free himself from the grip of these four persons, namely, Sarvashri Tiwari, Agarwal, Roonwal and Bhukmaria. In cross examination he has deposed that an oral report about the incident was made to the Regional Manager at about 8.30 p.m. on the same day, as prior to this time he was not available. The Asstt. General Manager was also not available and a complaint could not be made to him. He has admitted that staff of the Bank made a complaint against Shri Gandotra and gave it to him on 4-12-75. Similarly a complaint was given to Shri P. C. Raj A.A. on the day of the incident. He has admitted that Shri Gandotra was biting the thumb of Shri Tiwari and Shri Bhukmaria. He has denied that Shri Gandotra struck a blow on the face of Shri Tiwari but has admitted that this could have been done to free his hand.

8. A similar statement has been made by Shri Gandotra. After narrating the morning incident about the cheque for Rs. 15,000 and the enquiries made from Shri D. D. Sharma, he has stated that Shri Tiwari came out of his cash cage and started using abusive language. At that time he did not talk to him and the staff took back Shri Tiwari to his cash cage. In the evening at about closing time Shri Tiwari again started abusing, dwelling on the incident of the forenoon. He (Gandotra) called Shri Tiwari, through a peon in order to pacify him that he had not been involved in anyway in the incident. When Shri Tiwari came he told him that he had been unnecessarily abusing him and the officers in the afternoon as well as in the evening when he was not involved in any incident. After this Shri Tiwari caught hold of the and tried to suffocate him. There others, namely, Sarvashri Roonwal, Bhukmaria, Agarwal also came and caught hold of him so that Shri Tiwari could suffocate him and as he was getting suffocated he had to act in self

defence to get released from the hands of these persons. To protect himself and get his hand released, he had to bite Shri Tiwari's and Shri Bhukhmaria's thumb and in this attempt his hand dawsed against the mouth of Shri Tiwari. In this couffle his watch was broken and his neck became reddish. In his cross examination he has admitted that he did not get himself medically examined or treated by a doctor. He has admitted that Shri D. D. Sharma told that staff that the Branch Manager Shri Godika called him crack and even though the incident related to Shri Godika, the staff was abusing him (Gandotra). The staff was abusing him for the reason that the complains against the staff but does not complain against the behaviour of the Branch Manager.

9. The third witness produced by the Bank is Shri R. C. Raj who was A.A. at the relevant time. He has also described the morning as well as afternoon incident in which Shri Tiwari caught hold of the necktie of Shri Gandotra while the other members of the staff caught hold of him.

10. The workman has not examined himself or any witness on his behalf. It is therefore on the basis of the three witnesses produced by the Bank that it has to be seen whether the charges against the workman stand proved or not. The version of the workman about the incident has not been submitted before me in a clear manner and can only be gathered from the approach cross examination. Because of the teeth bite injury on the thumb and finger of Shri Tiwari and Ramavtar respectively and because of the admission that Shri Tiwari was called for by Shri Gandotra the workman wants to contends that the attacking party was Gandotra who is the culprit and not the workman Tiwari. No doubt, Shri Tiwari and Shri Ramavtar received injuries which could be examined by a doctor but they have not come in the witness box to show how they received the injuries. The witness Godika has offered the explanation that he did so as his hands were held and he was being suffocated. He had not called Shri Tiwari to attack him but to explain his position. But he found himself caught on all sides and he could only reach by his teeth the thumb of Tiwari holding the tie. A person attacking another would normally first and blows and even kicks and not gantly lift the hand of the other to bring to it his teeth in order to bite it. It is a desperate man, unable to use his hands, or a mad man who makes use of his teeth.

11. The case of the Bank cannot be disbelieved merely because a written complaint was not made on the day of the incident or because the bank has not examined all the witnesses who were present at the time of occurrence. The workman could have examined the others to support his version. I have no hesitation in coming to the conclusion that it was the workman Tiwari who in a fit of temper lost his mental balance, got flared and caught hold of the neck and tie of Shri Gandotra and alongwith others manhandled him. This type of behaviour is not expected from an employee of the bank where there are public dealings. If a bank loses its image it will lose business. The act of the workman amounts to misconduct for which he is to be penalised.

12. Now I come to the quantum of penalty. The disciplinary authority ordered withholding of two grade increments with cumulative effect. The workman has contended that this is disproportionate to the nature of misconduct. I do not agree with this suggestion as the penalty is not a major one. On considering the fact that the workman has not appeared in the witness box to make counter allegations and is trying to keep his balance of mind, a penalty of withholding of one increment with cumulative effect would serve the ends of justice.

13. An award is passed that the penalty of cancellation of one increment with cumulative effect is substituted in place of cancellation of two increments with cumulative effect ordered on 12-12-77. The workman shall be paid the difference in wages on account of this reduction of punishment.

14. The award is to be sent to the Government for publication.

SMT. MOHINI KAPUR, Judge.

[No. I-12012/270/80-D.II(A)]

नई दिल्ली, 10 अगस्त, 1985

आ आ 3814 -- अर्थो. वि. विवाद अधिनियम, 1947 (1947 का 14) के धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ बड़दा के पत्राचार में सम्बद्ध निवासीको और उनके कर्मचारों के बीच, अनुबंध में निरूपित औद्योगिक विवाद में औद्योगिक अधिकरण जयपुर के पंचाट का प्रकाशन करने के लिए केन्द्र सरकार को 12-7-85 को आदेश दिया था।

New Delhi, the 30th July, 1985

S.O. 3814.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the industrial Tribunal, Jaipur, as shown in the Annexure in the industrial dispute between the employers in relation to the Bank of Baroda and their workmen, which was received by the Central Government on the 12th July, '85.

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर

केस नं. आर्थो. वि. 7/85

केन्द्र सरकार अथवा मंचालय की अधिसूचना सं. 12012/92/84

की II दिनांक 11-2-85

राज बैंक एम्प्लो यूनियन, जयपुर

वर्ग

बैंक ऑफ बड़दा, जयपुर

उपस्थिति

मंच के ओर से

श्री श्री पी. शर्मा

निवासीक के ओर से

श्री अशोक महेश्वरी

दिनांक अर्वा

14-2-85

अर्वा

केन्द्र सरकार निम्नलिखित विवाद इस न्यायाधिकरण के द्वारा नियंत्रण अथवा अधिसूचना सं. 12012/91/84 के अ. दिनांक 14-2-85 के द्वारा औद्योगिक विवाद अधिनियम 1947 के धारा 10(1) के अन्तर्गत भेजा है।

"Whether the action of the management of Bank of Baroda, Jaipur in not absorbing Shri Ven Singh Purohit, Watchman at the godown of M/s. Maya Metal Industries, Vishwakarma Industrial Estate, Jaipur in Bank's regular service is justified? If not, to what relief is the workman concerned entitled?"

फर केन के प्रार्थना पर मिसल आज पेश हुई। श्री श्री पी. शर्मा यूनियन की ओर से तथा श्री अशोक महेश्वरी विपक्ष बैंक के ओर से उपस्थित हैं।

फरकेन ने आज एक बाराही समझौता पेश किया। समझौता तय-दक किया जाता है। अब यूनियन व बैंक के बीच कोई विवाद नहीं रहा। अब इस विवाद में समझौता की शर्तों के अनुसार अर्वाई पारित किया जाता है। बाराही समझौता का अर्वाई अंग रहेगा। अर्वाई केन्द्रीय सरकार को प्रकाशनार्थ भेजा जावे।

श्रीमत् मोहन कपूर, न्यायाधीश

[No. I-12012/91/84-D. II(A)]

RAJASTHAN BANK EMPLOYEES' UNION
CONSTITUENT UNIT OF ALL INDIA BANK OF BARODA
EMPLOYEES' CO-ORDINATION COMMITTEE
(AFFILIATED TO ALL INDIA BANK EMPLOYEES'
ASSOCIATION)

Assistant General Secretary's Office

C/o Bank of Baroda.

UDYOG BHAWAN.

JAIPUR-302005

Telephone : 73618 P.P.

Gram : CARE UDYORAB

PROVINCIAL OFFICE :

Parvana Bhawan,

Madho Bagh,

JODHPUR-342001

Ref. No. BOB/84-85/

Dated 14th Feb., 1985.

The Hon'ble Presiding Officer.

Industrial Tribunal,

JAIPUR (Raj.)

Dear Sir,

Re : Industrial dispute between Ven Singh Purohit, Watchman at M/s. Maya Metal Industries, V.I.A., Jaipur and management of Bank of Baroda, Jaipur.

We understand from Bank that Central Government has referred the above Industrial dispute to your honourable authority and the terms of the reference is as under :

"Whether the action of the management of Bank of Baroda is not absorbing Shri Ven Singh Purohit Watchman, at the godown of M/s. Maya Metal Industries, V.I. Area, Jaipur in the bank's regular service is justified? If not, to what relief is the workman concerned entitled?"

On 8th Feb., 1985 a memorandum of settlement has been signed between the parties before Assistant Labour Commissioner (Central), Jaipur on the following terms and conditions:

1. Shri Ven Singh will be absorbed in the bank service permanently before 20-2-85.
2. This settlement is in full and final of all his past claims against the bank.
3. He will not claim/entitled any back wages and other consequence benefits like leave, medical aid leave fare concession etc.
4. He and union agrees to withdraw all his Representation in the matter made to the various authorities under the law,

We are enclosing a photo copy of the above settlement for the record. By this letter we request the Hon'ble Court that the matter has been amicably settled between the parties on the above terms and conditions. We are handing over a copy of this letter to the bank so that they can go ahead with the implementation of the settlement.

Yours faithfully,

O. P. SHARMA, Asstt. General Secy.
For Rajasthan Bank Employees' Union.

FORM-H

MEMORANDUM OF SETTLEMENT ARRIVED AT BETWEEN THE MANAGEMENT OF BANK OF BARODA, JAIPUR AND THEIR WORKMAN REPRESENTED BY R.B.E.U. OVER THE PERMANENT ABSORPTION OF SHRI VEN SINGH IN BANK SERVICE

Rept. the management, 1. Shri A. K. Maheshwari, P.O. Bank of Baroda, Jaipur.

Rept. the workmen, 1. Shri O. P. Sharma, Asstt. Gen. Secretary, R.B.E.U., Jaipur.

567 GI/85-6

SHORT RECITAL OF THE CASE

In continuation of this office F.O.C. No. JP-7(9)/83-ALC dated 24-5-84 to the Secy., Govt. of India, Ministry of Labour & Rehabilitation, New Delhi and copies endorsed to the parties over the permanent absorption of Shri Ven Singh Purohit in Bank services, after that the parties negotiated the dispute mutually, and on 25-1-85 bank informed the union that they are agreeable to absorb Shri Ven Singh Purohit in bank services, on minimum scale of pay applicable, prospectively after obtaining from him the following undertakings :—

1. He agrees that his permanent absorption is in full and final settlement of all his claims against the Bank.
2. He will not claim any back wages and other consequential benefits like leave, medical aid, leave fare concession etc.
3. He agrees to withdraw all his representations in the matter made to various authorities under the Law.

Accordingly Shri Ven Singh Purohit made an application to the ALC(C), Jaipur that he has accepting the conditions laid down by the bank and he has no objection if he has absorbed by the bank permanently. After receipt of this representation from Ven Singh dated 28-1-85 was received by the office on 31-1-85. After receipt of the above application from Shri Ven Singh rept. of the bank and the union were called in the office to discuss the matter in the light of the offer made by the management to Shri Ven Singh and the acceptance made by Shri Ven Singh Purohit. After protracted discussions parties agreed to settle the matter on the following terms :—

Terms of Settlement

1. Shri Ven Singh will be absorbed in the bank service permanently before 20-2-85.
2. This settlement is in full and final of all his passed claims against the bank.
3. He will not claim/entitled any back wages and other consequences benefits like leave, medical aid, Leave fare concession etc.
4. He and union agrees to withdraw all his representations in the matter made to the various authorities under the law.

Parties shall submit the implementation report to the ALC(C), Jaipur by 28-2-85.

Rept. of the workmen.

Sd/- Illegible

Rept. of the management.

BALBIR SINGH, A.L.C.(C), Jaipur.

Witnesses.

1. Sd- Illegible
2. Sd/- Illegible

नई दिल्ली, 2 अगस्त, 1985

का. आ. 3815-औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार श्री सी. एल. सेल्व द्वारा यूनाइटेड कामशियल बैंक, जयपुर के प्रबंधन तंत्र के खिलाफ उक्त अधिनियम की धारा 33 के अधीन दायर की गई शिकायत के संबंध में औद्योगिक अधिकरण, जयपुर, का पंचाट, जैसे कि अनुबंध में है, प्रकाशित करते हैं। यह पंचाट केन्द्रीय सरकार को 12-7-85 को प्राप्त हुआ।

[संख्या एल-12025 1 / 83ड / 2(ए)]

एन. के. वर्मा, डैस्क अधिकारी

New Delhi, the 2nd August, 1985

S.O. 3815.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government

hereby publishes the award of the Industrial Tribunal, Jaipur as shown in the Annexure in respect of complaint under section 33A of the said Act, filed by Shri C. L. Shelli against the management of United Commercial Bank, Jaipur which was received by the Central Government on the 12th July, 1985.

मैन्टल इन्डस्ट्रियल ट्रिब्युनल, जयपुर
शिकायत नम्बर सी. आई. टि. 1/82
प्राथमिक-पत्र 33ए औद्योगिक विवाद अधिनियम, 1947 के अन्तर्गत
प्राथी श्री. म. एल. शेली,
बनाम
यूनाइटेड कमर्शियल बैंक जयपुर।

उपस्थित :

वियोजक के ओर से : श्री धर्मचन्द्र शर्मा
प्राथी के ओर से : श्री हाजिर मही
दिनांक प्रकाश : 19-12-84

अवार्ड

यह प्राथमिक-पत्र अन्तर्गत 33ए औद्योगिक विवाद अधिनियम, 1947 के अन्तर्गत प्रस्तुत किया गया है। जवाब पेश होने के बाद कोई पेशियां पड़नी नहीं रही।

प्राथी की ओर से कोई उपस्थित नहीं है। कोई पेशियों से कोई नहीं आ रहा है और प्राथी की तारीख के लिये मॉर्टिम भं. पहुँच चुका है पर फिर भी कोई हाजिर नहीं है। विपक्ष की ओर से श्री धर्मचन्द्र शर्मा उपस्थित है। उनका कहना है कि प्राथी ने यह कम्प्लेंट एस० 33ए आई० टि० एक्ट में अपने मसूपेन्स के विरुद्ध की थी पर उसका मसूपेन्स रीबीक कर दिया गया है और वह अपना कार्य कर रहा है। ऐस. स्थिति में आवेदक की अहति स्पष्ट है। अल एस० 33ए आई० टि० एक्ट का यह आवेदन खारिज किया जाता है। आदेश केन्द्र सरकार को भेजा जाये।

श्रीमती मोहिनी कपूर, न्यायाधीश
[सं० एल-12025/10/83डी०-II ए०]
एन० को० बर्मा, डेप्ट. अधिकारी

नई दिल्ली, 19 जुलाई, 1985

का. भा. 3816—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पश्चिमी रेलवे के प्रबंधन से सम्बद्ध नियोजकों और उनके कर्मचारियों के बीच अनुबंध में निहित औद्योगिक विवाद में औद्योगिक अधिकरण, जयपुर के पंचाट का प्रकाशित करती है, जो केन्द्रीय सरकार को 12 जुलाई, 1985 को प्राप्त हुआ था।

New Delhi, the 19th July, 1985

S.O. 3816.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Jaipur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Western Railway Administration and their workmen, which was received by the Central Government on the 12th July, 1985.

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर

फैसल० सी० आई. टि० 30/84

केन्द्र सरकार, श्रम मंत्रालय का अधिसूचना सं. 41011(4)/183
डी-II (बी) दिनांक 21-1-84

पश्चिम. रेलवे कर्मचारों पश्चिम. कोटा

बनाम

वैमर्त रेलवे, कोटा एवं बम्बई

उपस्थित :

व्यक् के ओर से : कोई नहीं
नियोजक के ओर से : महेश कुमार
दिनांक प्रकाश : 24-11-84

अवार्ड

केन्द्र सरकार निम्नलिखित विवाद इस न्यायाधिकरण के वास्ते निपटारा भगत अधिसूचना सं. एल 41011 (4)/183-डी-II (बी) दिनांक 21-1-84 के द्वारा औद्योगिक विवाद अधिनियम, 1947 का धारा 10 (I) के अन्तर्गत भेजा है :-

"1. Whether the action of the Divisional Railway Manager, Western Railway, Kota discontinuing the service of Shri R. Jaswant Singh and H. Mohanlal, casual labourers under PWI(N) Kota with effect from 17-5-80 and not granting them temporary status is justified? If not, to what relief are the workmen entitled?"

2. Whether the action of the Divisional Railway Manager, Western Railway, Kota for not granting temporary status to Shri Manoharan Shah from 21-8-78 and not making payment of arrears on authorised scales, is justified? If not, to what relief is the workman entitled?"

विपक्षी के ओर से श्री महेश कुमार उपस्थित। यूनियन की ओर से कोई हाजिर नहीं है। बावजूद सूचना के कोई उपस्थित नहीं आया और कोई क्लेम भी प्रस्तुत नहीं हुआ इससे प्रगट होता है कि यूनियन को इस विवाद में कोई रुचि नहीं है अतः इस रेफरेंस में नो डिस्प्यूट अवार्ड जारी किया जाता है। केन्द्र सरकार को भेजा जाये।

श्रीमती मोहिनी कपूर, न्यायाधीश,

[No. L-41011(4)/83-D-II(B)]

केन्द्र औद्योगिक न्यायाधिकरण, जयपुर

का. भा. 3817—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्र सरकार आरडनेन्स फैक्ट्री के खमारिया, जबलपुर (म. प्र.) के प्रबंधन से सम्बद्ध नियोजकों और उनके कर्मचारियों के बीच अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, व. II बम्बई के पंचाट का प्रकाशित करती है जो केन्द्र सरकार को 11 जुलाई, 1985 को प्राप्त हुआ था।

S.O. 3817.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal No. II, Bombay, as shown in the Annexure, in the industrial dispute between the employers in relation to the Ordnance Factory, Khamaria, Jabalpur (M.P.) and their workmen, which was received by the Central Government on the 11th July, 1985.

BEFORE SHRI M. A. DESHPANDE, PRESIDING OFFICER, CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO. II, BOMBAY (CAMP AT JABALPUR)

Case No. CGIT/LC-2/28 of 1985 (Bombay)

Case No. CGIT/LC(R)(62) of 1984 (Jabalpur)

PARTIES:

Employers in relation to the management of Ordnance Factory, Khamaria and their workman, Mishrilal C/o. Shri R. P. Rusia, Advocate of High Court, Jabalpur (M.P.).

APPEARANCES:

For workman.—Shri S. K. Rao, Advocate.

For Management.—Shr A. K. Chaube, Advocate.

INDUSTRY: Ordnance Factory DISTRICT: Jabalpur (M.P.)

AWARD

Dated July 4, 1985

By their Order No. L-13012(4)/83-D.II(B) dated 21st July, 1984 the following dispute has been referred which has been transferred to this Tribunal by Order No. S-11025(1)/85-D.IV(B) dated 8th February, 1985:—

“Whether the action of the management of Ordnance Factory, Khamaria, Jabalpur (M.P.) in dismissing Sri Mishrilal Barber T. No. DSC/10 from service, with effect from 30-3-1980 is justified? If not, to what relief the workman is entitled?”

2. As the order of reference indicates the dispute has arisen because of the dismissal from service of the workman, Shri Mishrilal Barber. The case of the workman is that during the enquiry held against him for the alleged misconduct no proper opportunity was given, that the Enquiry Officer was biased against the applicant and that the copies of the material documents on which the charges were based were neither supplied nor inspection thereof was given and that ultimately stated that due to the atmosphere then prevailing in Emergency under duress some signatures were obtained.

3. All these allegations have been refuted by the management who plead proper conduct of the enquiry on the charge of theft of government material and the order of dismissal passed by the competent authority which was upheld in appeal by the Appellate Authority.

4. Only points therefore which arise for determination are:—

1. Whether the enquiry was proper?
2. Whether the findings arrived at were reasonable and proper or did they suffer from perversity?
3. Whether the punishment awarded is disproportionate or harsh?

My findings are:—

Point No. 1	Yes
Point No. 2	Yes, Not perverse.
Point No. 3	No.

Reasons:

5. I have gone through the enquiry papers and I find that there were witnesses like Richpal Singh, Sepoy Roshan Lal and Sepoy Chatri who had seen the workman committing the misconduct and caught him red handed. There is even the evidence of Chatri who further says that when the workman was apprehended he tried to bribe him by suggesting the distribution of the material fifty-fifty. All these witnesses except the last mentioned were cross-examined and they stood to the test of the cross-examination. In the light of this evidence therefore there was no other conclusion possible than to hold the workman guilty of the charge of misconduct of theft to which the conclusion the Enquiry Officer had arrived and therefore when the enquiry was fair and proper as noticed from the enquiry papers and when the finding is also found to be reasonable

and proper, in the circumstances of the case no relief is possible.

6. On the question of harshness or disproportionateness though this point has not been raised by the workman since he has been dismissed it will have to be considered. But when an employee of the Ordnance Factory was found to be committing theft of goods of the factory and caught red handed for the same, I do not think that the order of dismissal passed by the competent authority can be said to have been made disproportionate or harsh. Award accordingly.

4-7-1985.

M. A. DESHPANDE, Presiding Officer.
[No. L-13012/4/83-D.II(B)]

का. प्रा. 3818:- औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) का धारा 17 के अनुसरण में, केन्द्रीय सरकार कन्टोन्मेन्ट बोर्ड सागोर के प्रबंधन से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच अनुसंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिनियम, नं. II बम्बई के पंचाट का प्रकाशित करती है, जो केन्द्रीय सरकार की 11 जुलाई, 1985 को प्राप्त हुआ था।

S.O. 3818.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government Industrial Tribunal No. II, Bombay, as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Cantonment Board Saugor and their workmen, which was received by the Central Government on the 11th July, 1985.

BEFORE SHRI M. A. DESHPANDE, PRESIDING OFFICER, CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, NO. II, BOMBAY (CAMP AT JABALPUR)

Case No. CGIT-2/15 of 1985 (Bombay)

Case No. CGIT/LC(R)/33 of 1983 (Jabalpur)

PARTIES:

Employers in relation to the management of Cantonment Board Saugor and their workman represented through the Saugor Cantonment Board Karamchari Sangh, Bittal Nagar (Madia), Saugor (M.P.).

APPEARANCES:

For Union.—Shri N. N. Limaye, Advocate (Absent).

For Management.—Shri A. N. Sharma (Absent).

INDUSTRY: Cantonment Board DISTRICT: Saugor. (M.P.)

AWARD

Dated: July 3, 1985

By their order No. L-13012(10)/82-D.II(B) dated 28th June 1983 (transferred vide Order No. S-11025(1)/85-D.IV(B) dated 8th February, 1985) the Ministry of Labour has referred the following dispute for adjudication:—

“Whether the act of the management of Cantonment Board, Saugor (M.P.) in terminating the services of Shri Munnalal S/o. Srilal, Sweeper with effect from 19-2-1981 is justified? If not, to what relief the workman is entitled?”

2. The dispute has arisen because of the removal from service of Sweeper with effect from 19-2-1981 by the Cantonment Board, Saugor. In this regard the case of the workman, as stated by the Union, is that Munna Lal S/o. Shri Srilal is a member of the Union espousing the

cause, was appointed as a Sweeper on 7-1-1976 by the office Order No. E4/34 dated 18-12-1975. It is further contended that on 10-3-1981 a charge-sheet was issued against him but on service of the charge-sheet when copies of the reports were demanded, the Union complains, they were never furnished. It is further stated that no enquiry was held into the charge-sheet but without holding such enquiry the services were brought to an end.

3. The employer viz. the Cantonment Board contends that Munnalai was a habitual absentee as a result of which the work was to be dislocated and therefore he was charge-sheeted for remaining absent, thereafter there was a demand for the copies of the documents, but the workman was told to take inspection in the office. The Board says that no such inspection was taken and when there was a report to this effect a decision was taken to discharge the Sweeper from service and consequently by letter No. E4/QAA-II dated 15-5-1981 the relationship was severed by removing him from service and by paying him wages for one month in lieu of notice amounting to Rs. 347.30. It is alleged that a cheque was encashed and the amount was accepted by the workman. It may be added here that the date of entry into service, namely the 12th of January 1976 stands accepted.

4. Since the order of reference speaks whether the termination was justified and if not whether the workman is entitled to any relief, the questions to be determined were the rights of the workman at the relevant time. As the pleadings stand, although there was a charge of habitual absenteeism and for the said purpose even a chargesheet was served, no enquiry admittedly was held whatever may be the reason behind the same. Consequently, if no enquiry was held and against this the enquiry which was ordered was dropped, the ultimate removal from service can never be said to be by way of punishment which inference is further strengthened from the fact that at the time of removal from service wages equal to one month in lieu of notice were paid to the workman. In case the removal would have been by way of dismissal or by way of punishment there was no such obligation on the employer. Consequently, as the facts appear from the pleadings, the removal of the workman from service is nothing but retrenchment as defined by Section 2(oo) of the I.D. Act. Once the element of punishment disappear and the only question remaining for consideration would be whether this termination has been brought about legally and as required by Sec. 25F of the I.D. Act. We have already seen the two dates i.e. the commencement of service and the date of termination namely 12th January 1976 and 19-2-1981, meaning thereby that before termination the workman had put in more than four years of service and if it was a state of facts the not only one month's notice is necessary as required by Section 25F(a) but Section 25F(b) requires the payment of retrenchment compensation equal to 15 days average wages for every completed year of continuous service and the position of law now is clear that if any of the two clauses namely Section 25F(a) and 25F(b) is not complied with the action becomes illegal which may not be the case with the 3rd Clause with which we are not concerned. The record, as it appears from the pleadings, clearly goes to show that the action of the management of removal on 19-2-1981 which was not by way of punishment was not legally taken and once we have arrived at this conclusion non-compliance with the provisions of Sec. 25F renders the termination illegal as a consequence whereof the workman is entitled to all the reliefs that flow from such illegal termination i.e. the reinstatement with all full back wages as it is not the case of the Cantonment Board that the workman was gainfully employed during this period, Award accordingly.

The record of the proceedings would indicate that every time when the matter was fixed for hearing, both parties sought adjournment on one pretext or the other. On this occasion, their request for adjournment was, therefore, rejected. Since the termination has occurred some four years back the matter is decided on the strength of the facts as are patent from the pleadings, in exercise of the powers under Rule 22 of the Industrial Disputes (Central) Rules, 1957.

M.A. DESHPANDE, Presiding Officer

Dated : 3-7-1985,

[No. L-13012/10/82-D.II(B)]

का. आ. 3819 :- औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) का धारा 17 के अनुसरण में, केन्द्रीय सरकार बेस्टर्न रेलवे बम्बई के प्रबंधतंत्र से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निविष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, जयपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 15 जुलाई, 1985 को प्राप्त हुआ था।

S.O. 3819.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Jaipur, as shown in the Annexure in the industrial dispute between the management of Western Railway, Bombay and their workmen, which was received by the Central Government on the 15th July, 1985.

केन्द्रीय औद्योगिक न्यायाधिकरण, अयपुर

केस नं. मा. आई. डा. 2/84

केन्द्र सरकार अथवा मंत्रालय को अधिसूचना सं. एल 41011 (243) .

83 डा II (बं.) दिनांक 9-11-83

पश्चिम रेलवे कर्म परिषद कोटा

बनाम

बेस्टर्न रेलवे, कोटा

उपस्थित :

संघ का और से :

श्री. महेन्द्र

नियोजन का और से :

कोई हाजिर नहीं

दिनांक अवाई :

24-11-84

अवाई

केन्द्र सरकार निम्नलिखित विवाद इस न्यायाधिकरण को वास्तव निपटारा अपनी अधिसूचना सं. 41011/(243) II डा 33 (बं.) (दिनांक 9-11-83 के द्वारा औद्योगिक विवाद अधिनियम, 1947 को धारा 10 (1) के अन्तर्गत भेजा है।

"Whether the action of the Railway Administration in relation to their Kota Division in withholding the increments of Shri Y. P. Dewara, T.T.E., W. Railway, Kota for two years with effect from 6-3-82 vide their letter No. E/T/308/12/6016 dated 24-7-81 and for one year with effect from the same date vide their letter No. E/T/308/12/6016 dated 3-9-81, is justified? If not, to what relief is Shri Y. P. Dewara entitled?"

विपक्ष का और से श्री महेन्द्र कुमार उपस्थित। युनियन का और से कोई हाजिर नहीं है। बाबजूद सूचना के कोई उपस्थित नहीं हुआ और कोई क्लेम भी प्रस्तुत नहीं हुआ। इससे यह प्रगट होता है कि युनियन को इस विवाद में कोई रुचि नहीं है। अतः इस रेफरेंस में जो डिस्प्यूट अवाई जारी किया जाता है। केन्द्र सरकार को भेजा जाये।

श्रीमती मोहनदा कपूर, न्यायाधिश
[No. L-41011(24)83-D.II(B)]

का. आ. 3820 :- औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) का धारा 17 के अनुसरण में केन्द्रीय सरकार बेस्टर्न रेलवे एडमिनिस्ट्रेशन के प्रबंधतंत्र से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच

अनुबंध में निविष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, जयपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 11 जुलाई, 1985 को प्राप्त हुआ था।

S.O. 3820.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Jaipur as shown in the annexure, in the industrial dispute between the employers in relation to the management of Western Railway Administration and their workmen, which was received by the Central Government on the 11th July, 1985.

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर

केस नं. सी. आई. टी. 20/84

केन्द्र सरकार, श्रम मंत्रालय की अधिसूचना सं. एल. 41011 (19)

83 डी II (बी) दिनांक 20-11-83

पश्चिम रेलवे, कर्मचारियों परिषद, कोटा

बनाम

वेस्टर्न रेलवे कोटा एवं सम्बंध

उपस्थित :

संब की ओर से : कोई हाजिर नहीं

नियोजक की ओर से : श्री महेन्द्र कुमार

दिनांक अर्वाइ : 24-11-84

अर्वाइ

केन्द्र सरकार निम्नलिखित विवाद इस न्यायाधिकरण को वास्ते निपटारा अपनी अधिसूचना सं. एल. 41011 (19) 83 डी II (बी) दिनांक 20-11-83 के द्वारा औद्योगिक विवाद अधिनियम, 1947 की धारा 10 (i) के अन्तर्गत भेजा है :

"Whether the action of the Railway Administration in discontinuing the services of Shri Narainlal Sharma, Casual labour working under CTCI Western Railway, Kota with effect from the 21st February, 1980 and further of not giving him an opportunity for employment when his juniors were employed on subsequent vacancies is justified? If not, to what relief is the said workman entitled?"

विपक्षी की ओर से श्री महेन्द्र कुमार उपस्थित। यूनियन की ओर से कोई हाजिर नहीं है। बावजूद सूचना के कोई उपस्थित नहीं आया और कोई क्लेम भी प्रस्तुत नहीं हुआ इससे यह प्रकट होता है कि यूनियन को इस विवाद में कोई रुचि नहीं है। अतः रेफरेंस में नो डिस्प्यूट अर्वाइ जारी किया जाता है। केन्द्र सरकार को भेजा जाये।

श्रीमती मोहनो कपूर, न्यायाधीश,
[नं. एल-41011 (35)/83-डी II (बी)]

नई दिल्ली, 22 जुलाई, 1985

का. आ. 3821:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार वेस्टर्न रेलवे, सम्बंध के प्रबंधन से सम्बंध नियोजकों और उनके कर्मचारियों के बीच अनुबंध में निविष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, जयपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 15 जुलाई, 1985 को प्राप्त हुआ था।

New Delhi, the 22nd July, 1985

S.O. 3821.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Industrial Tribunal, Jaipur, as shown in the Annexure, in the industrial dispute between the employers in relation to the General Manager, Western Railway, Bombay and the D.R.M.W Rly, Kota, and their workmen, which was received by the Central Government on the 15th July, 1985.

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर

केस नं. सी आई टी 7/84

केन्द्र सरकार श्रम मंत्रालय की अधिसूचना सं. एल 41011

(35) 83-डी II (बी) दिनांक 9-12-83

पश्चिम रेलवे कर्म परिषद, कोटा

बनाम

वेस्टर्न रेलवे, कोटा

उपस्थित :

संब की ओर से :

नियोजक की ओर से :

दिनांक अर्वाइ :

श्री महेन्द्र कुमार

कोई हाजिर नहीं

24-11-84

अर्वाइ

केन्द्र सरकार निम्नलिखित विवाद इस न्यायाधिकरण को वास्ते निपटारा अपनी अधिसूचना सं. एल 41011/(35)183-डी II (बी) दिनांक 9-12-83 के द्वारा औद्योगिक विवाद अधिनियम, 1947 की धारा 10 (i) के अन्तर्गत भेजा है :

"Whether the action of the Western Railway Kota, in relation to Divisional Superintendent (New Divisional Railway Manager) Western Railway Kota Division in fixing the pay of Shri Kishori Lal Saxena, Cinema Projector Operator under Ds. TE Kota in the scale of Rs. 60-130 (P) w.e.f. 12-3-1958 and in subsequently revised scales of Rs. 110-180 and 260-400 vis-a-vis the recommendation of the Second and Third Pay Commission is justified? If not, to what relief is Shri Kishori Lal Saxena entitled?"

विपक्षी की ओर से श्री महेन्द्र कुमार उपस्थित। यूनियन की ओर से कोई हाजिर नहीं है। बावजूद सूचना के कोई उपस्थित नहीं हुआ और कोई क्लेम भी प्रस्तुत नहीं हुआ। इससे यह प्रकट होता है कि यूनियन को इस विवाद में कोई रुचि नहीं है। अतः इस रेफरेंस में नो डिस्प्यूट अर्वाइ जारी किया जाता है। केन्द्र सरकार को भेजा जाये।

श्रीमती मोहनो कपूर, न्यायाधीश

[संख्या एल-41011/(35)/83-डी II (बी)]

नई दिल्ली, 23 जुलाई, 1985

का. आ. 3822:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार वेस्टर्न रेलवे एडमिनिस्ट्रेशन के प्रबंधन से सम्बंध नियोजकों और उनके कर्मचारियों के बीच अनुबंध में निविष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, जयपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 12 जुलाई, 1985 को प्राप्त हुआ था।

New Delhi, the 23rd July, 1985

S.O. 3822.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal Jaipur, as shown in the Annexure; in the industrial dispute between the employers in relation to the management of Western

Railway Administration and their workmen, which was received by the Central Government on the 12th July, 1985.

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर

केस नं० सी०आई०टी० 35/84

केन्द्र सरकार, श्रम मंत्रालय की अधिसूचना सं० एल 41011/40

84-डी II (बी) दिनांक 23-2-84

पश्चिमी रेलवे कर्मचारी परिषद, कोटा

बनाम

वेस्टन रेलवे, कोटा एवं बंबई

उपस्थित :

सच की ओर से : कोई हाजिर नहीं

नियोजन की ओर से : महेश्वर कुमार

दिनांक अवार्ड : 24-11-84

अवार्ड

केन्द्र सरकार निम्न लिखित विवाद इस न्यायाधिकरण को वास्तु निपटारा अपनी अधिसूचना सं० 41011/(40)83 डी II (बी) दिनांक 23-2-84 के द्वारा औद्योगिक विवाद अधिनियम, 1947 की धारा 10(1) के अन्तर्गत भेजा है।

"Whether the action of the Western Railway Management in relation to the Divisional Railway Manager, Western Railway Kota in giving seniority to Shri Manak Chand over Shri Ram Kishan is justified ? If not, to what relief Shri Ram Kishan is entitled ?"

विपक्षी की ओर से श्री महेश्वर कुमार उपस्थित। यूनियन की ओर से कोई हाजिर नहीं है। बावजूब सूचना के कोई उपस्थित नहीं हुआ और कोई क्लेम भी प्रस्तुत नहीं हुआ। इस से यह प्रकट होता है कि यूनियन को इस विवाद में कोई रुचि नहीं है। अतः इस रेफरेंस में सी डिस्प्यूट अवार्ड जारी किया जाता है। केन्द्र सरकार को भेजा जाये।

श्रीमती मोहिनी कपूर, न्यायाधीश

का०आ० 3823.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार अस्टिंट इंजीनियर माइक्रोवेव मेन्टेनेंस के प्रबंधक से सम्बद्ध नियोजकों और उनके कर्मचारियों के बीच अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 12 जुलाई, 1985 को प्राप्त हुआ था।

S.O. 3823.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Jaipur, as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Assistant Engineer Microwave Maintenance and their workmen, which was received by the Central Government on the 12th July, 1985.

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर

केस नं० सी०आई०टी० 52/84

केन्द्र सरकार, श्रम मंत्रालय की अधिसूचना सं० एल 42012(11)]

83-डी II (बी) दिनांक 30-1-85

श्री हरि मोहन माथुर

बनाम

माइक्रोवेव मेन्टेनेंस (पी० एण्ड टी०), अलवर

उपस्थित :

सच की ओर से : कोई नहीं

नियोजन की ओर से : श्री माता दीन

दिनांक अवार्ड : 30-1-85

अवार्ड

केन्द्र सरकार निम्नलिखित विवाद इस न्यायाधिकरण को वास्तु निपटारा अपनी अधिसूचना सं० एल 42012/(11)/(83 डी II बी) दिनांक 30-1-85 के द्वारा औद्योगिक विवाद अधिनियम, 1947 की धारा 10 (1) के अन्तर्गत भेजा है :

"Whether the management of P & T in relation to their Assistant Engineer of Microwave Maintenance P & T Alwar, is justified in terminating the services of Shri Hari Mohan Mathur, Casual workman with effect from 1-12-80 ? If not, to what relief, Shri Hari Mohan is entitled ?"

श्रमिक पक्ष की ओर से कोई उपस्थित नहीं है। नियोजक की ओर से श्री मातादीन सहायक अभियन्ता ने उपस्थित होकर आवेदन प्रस्तुत किया कि श्रमिक हरि मोहन माथुर के 4-5-81 से शक तार विभाग में बैटरी मैन के पद पर नियुक्त कर दिया है। श्रमिक ने विवाद के संबन्ध में कोई क्लेम प्रस्तुत नहीं किया जिससे प्रतीत होता है कि विपक्षी का कथन सही है और जो रेफरेंस किया गया है उसमें कोई विवाद पेश नहीं है। अतः तो डिस्प्यूट अवार्ड जारी किया जाता है जो वास्तु प्रकाशन केन्द्र सरकार को भेजा जाये।

श्रीमती मोहिनी कपूर, न्यायाधीश

[No. L-42012(11)(83-D.II(B))]

नई दिल्ली, 24 जुलाई, 1985

का०आ० 3824.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार जनरल मैनेजर नार्थ ईस्टर्न रेलवे के प्रबंधक से सम्बद्ध नियोजकों और उनके कर्मचारियों के बीच अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 16 जुलाई, 1985 को प्राप्त हुआ था।

New Delhi, the 24th July, 1985

S.O. 3824.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur, as shown in the Annexure in the industrial dispute between the employers in relation to the The General Manager, North Eastern Railway,

Gorakhpur and their workmen, which was received by the Central Government on the 16th July, 1985.

(AWARD)

HARI SINGH, Desk Officer

[No. L-41012(13)/81-D.II(B)]

BEFORE SHRI R. B. SRIVASTAVA, PRESIDING OFFICER
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
KANPUR

INDUSTRIAL DISPUTE NO. 50/1983

In the matter of dispute between :

Shri Harihar Tewari, C/o Shri B. D. Tewari, Zonal President
Uttar Railway Karamchari Union, Roshan Tal Hajaj Lane,
Ganesh Ganj, Lucknow.

AND

The General Manager, North Eastern Railway, Gorakhpur.
PRESENT:

Shri B.D. Tewari, representative for the workman.

Shri B. P. S. Chauhan, representative—for the management.

AWARD

1. The Central Government, Ministry of Labour vide its notification No. L-41012(13)/81, D-II(B) dt. 23rd June, 1982, has referred the following dispute for adjudication.

Whether the action of the District Engineer FCW North Eastern Railway, Gorakhpur, in terminating the services of Shri Harihar Tewari, with effect from 1-4-1968, is justified? If not, to what relief the said workman is entitled?

2. It is common ground that the workman Shri Harihar Tewari, was engaged as casual labour on daily wages from 17th November, 1961. The workman was granted authorised scale of pay with D.A. and other allowances from 29-7-62 and the services of the workman were terminated on 30-11-62 on account of expiry of sanction of the post of temporary Khalasis. According to the management the other temporary employees who were terminated alongwith the workman on 30-11-62 were given a chance when casual labours for survey of cashment area was required and they were called to report by 7-12-62, failing which they will be replaced by other candidates. The workman did not join there whereas his juniors reported the duty and joined employment which was open to all casual labours retrenched persons and it would be wrong to say that his juniors were retained in service after 30-11-62. From the details given in para 2 about the workman's working as casual labour from 7-12-62, till 31-3-68, his broken period and at daily wages shows that he was engaged against different works sanctioned from time to time for specific period and after expiry of the same his services were terminated. The management has admitted that the petitioner has filed a civil suit No. 196/70 which was decided in favour of the workman and after the same was confirmed in appeal by Additional District Judge, Gorakhpur on 31-1-73, the railway had paid the sum of Rs. 3850 to the workman in 1974. On Second appeal in the Hon'ble High Court, the decree of the appellate court was set aside and the management was held entitled to get back that amount as the Hon'ble High Court had opined that the civil court had no jurisdiction and no remedy lay under the Industrial Disputes cases. As the workman was deemed to be in service and paid upto 31-7-68 and he has claimed benefit from 1-8-68.

3. The representative for the workman urged before me that he had completed 240 days working between 21-3-66 to 31-3-67 as well as between 17-11-61 to 30-11-62. The applicant has claimed his reinstatement and back wages from 1-4-68, he has been paid back wages from 1-4-68 to 31st July, 1968 on C.P.C. Scale rate and from 17-12-79 to 15-1-80 and from 21-1-80 to 15-6-80 as casual labour. It is not disputed.

4. The management has examined Shri Vishambhar Prakash CDM of the Office of Executive Engineer, NER Gorakhpur, who filed a chart alongwith his affidavit that the workman had not completed more than 240 days before his discharge on 1-4-68. The workman has submitted his deposition that he worked more than 240 days in span

31-3-66 to 31-3-67 by filing annexure II, the record of the service of the casual labour which shows that during the span 31-3-66 to 31-3-67 he worked for more than 240 days as casual labour. Moreover, from the same service card it is evident that he had completed more than 240 days work during the span 17-11-61 to 30-11-62. It is not disputed that the services of Shri Harihar Tewari were dispensed with on 31-11-62, allegedly for want of sanction for work without termination letter and retrenchment compensation. It is not the case of the management that the workman was employed any project work which was come to an end on 30-11-62. The management witness had admitted that he had no record that if retrenchment compensation was given or not to the workman. He has further stated that when he was reappointed on 7-12-62 his previous services were not taken into consideration and he was a casual labour. He had admitted that he does not know if in view of the instruction of the Assistant Engineer, TOWS sent any letter to the retrenched employees including the workman to appear for work from 7-12-62.

5. In Robert D.Souza Vs Executive Engineer, Southern Railway, 1982 S.C. (L&S) page 124 where it was held:

The test provided in Rule 2501 in Chapter XXV of the Indian Railway Establishment Manual is the for the purpose of determining the eligibility of casual labour to be treated as temporary, the criterion should be the period of continuous work put in collectively by any particular gang or group of labourers. Therefore if a person belonging to the category of casual labour employed in construction work other than workcharged projects renders six months' continuous service without a break by the operation of statutory rule the person would be treated as temporary railway servant after the expiry of six months of continuous employment. It is equally true even of seasonal labour.

6. Thus workman Shri Harihar Tewari had become a temporary railway servant as oppose to casual labour and it was probably for this reason that he was paid C.P.C. scale rate after six months. It was further held that even assuming that he was a daily rated worker hence once he renders continuous service for a period of one year or more within the meaning of section 25F of the Act and his service is terminated for any reason whatsoever, and the case does not fall in any of the excepted categories, notwithstanding the fact that rule 2505 would be attracted, it would have to be read subject to the provisions of the Act. Accordingly, the termination of service in this case would constitute retrenchment and for not complying with pre-conditions to valid retrenchment, the order of termination would be illegal and invalid.

7. As retrenchment compensation was not paid to the workman at his termination at the first spell on 31-11-62, the termination of the workman would be illegal.

7. Termination being illegal reinstatement is necessary relief that follows. The workman should be put back where he left off.

8. As observed earlier the workman has worked as casual labour on daily wages from 7-12-62 to 31-3-68 with breaks. On similar ground, the workman having worked for more than 240 days in spell from 16-4-66 to 31-3-67, he should have been paid C.P.C. scale rate and when services terminated on 31-3-66 he should have been given retrenchment compensation failure of which again entitled him to be reinstatement.

9. The result is that the workman become temporary railway servant in the first spell when C.P.C. scale rate was given to him in October, 1962 on 29-7-62. As he has deemed to be continuing in service for want of retrenchment compensation on two occasions i.e. 30th November, 1962 and again on 31-3-66 he will be deemed to be continuing even after 31-3-68 and that too on C.P.C. scale rate of pay.

10. In view of the above discussion and law discussed above, I hold that the action of the railway management (Executive Engineer NER Gorakhpur) in terminating the services of Shri Harihar Tewari Khalasi w.e.f. 1-4-68 unjust illegal and not justified.

11. The result is that the workman be reinstated in service w.e.f. 1-4-68 with full C.P.C. Scale rate. The management shall be entitled for the adjustment of all the payments made at casual rate and in consequence of the degree passed by Additional District Judge, Gorakhpur, amounting to Rs. 3850.

12. Under the circumstances of the case, the workman shall get Rs. 100 as cost from the management Railway.

13. I, therefore, give my award accordingly.

Sd/-

R. B. SRIVASTAVA, Presiding Officer.

14. Let six copies of this award be sent to the Government for publication.

R. B. SRIVASTAVA, Presiding Officer.

[No. L-46012]13/81-D.II(B)]

4th July, 1985.

का०अ० 3825.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्वय में, केन्द्रीय सरकार अमिटेड रेलवे इंजीनियर नार्थरन रेलवे, राय बरेली के प्रबंधन से सम्बद्ध नियोजकों और उनके कर्मचारियों के बीच अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के गंचोट को प्रकाशन करती है, जो केन्द्रीय सरकार को 16 जुलाई, 1985 को प्राप्त हुआ था।

S.O. 3825.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur, as shown in the Annexure in the industrial dispute between the employers in relation to the Assistant Railway Engineer, Northern Railway Rai Bareli and their workmen, which was received by the Central Government on the 16th July, 1985.

ANNEXURE

BEFORE SHRI R. B. SRIVASTAVA, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL,

KANPUR

I.D. No. 5/84

In the matter of dispute between :

Shri Gurdeen, C/o Shri B. D. Tewari Zonal President,
Uttar Railway Karamchari Union, Roshan Lal Bajaj
Lane, Ganesh Ganj, Lucknow.

AND

The Management of Northern Railway, Lucknow.

PRESENT :

Shri B. D. Tewari representative for the workman
Shri Hamid Quereshi—for the management.

AWARD

The Central Govt. Ministry of Labour, vide its notification No. L-11012(23)/83-D.II(B), dated 11th January, 1984 has referred the following dispute for adjudication :

Whether the action of the railway administration in relation to their establishment of Assistant Railway Engineer Northern Railway, Rai Bareli in not pro-

viding employment to Shri Gurdin son of Shri Ram Nath with effect from 1-7-75, is justified ? If not, to what relief is the workman entitled ?

Workman Shri Gurdin was gangman in northern railway under Assistant Engineer from 15-12-67 to 1-7-75 and he worked during this period under P.W.I. Bancharawa and Unchahar. He was discharged on 2-7-75 while working under P.W.I. Rai Bareli and in this way he had completed more than 7 years services under assistant engineer Raibareli.

In the year 1970 penal of gangman was formed in which the name of the workman appeared at serial No. 425. He thereafter worked upto 1-7-75 as regular empanelled employee and not as casual labour. The case set out by the management is that the workman after empanellment did not turn for employment for about 10 years hence there was no question of his termination and retrenchment as alleged. According to the workman was retrenched w.e.f. 2-7-75 without notice pay and retrenchment compensation and without assigning any reason for retrenchment, and no intimation was given to the workman. Thus according to the workman section 25F of the I.D. Act was totally disregarded. In consequence the termination being illegal he is entitled to be reinstated with full back wages.

It is averred by the management in the written statement that in the beginning of 1979 one Gurdin son of Ram Nath resident of village Chaira Nihar H.O. Dhaniya P.O. Kalyanpur Raily District Raibareli submitted a sworn affidavit for age proof and his identity was verified by the then PW-I Unchahar and he was sent for medical test and after qualifying the medical category B1 he was observed as gangman under P.W.I. Bancharawa against a regular post from 4-2-80. That later on this another Gurdin son of Ram Nath of village Purwa Pindore P.O. Katghar, District Raibareli came forward with an application in June 80 that a person with real name Ram Bahadur son of Jagannath resident of village Chairanihar Hemlet of Mangava district Raibareli, has obtained employment under P.W.I. Bancharawa by impersonating against a candidate of workman in question whose name appeared at serial No. 425 in the penal. In this way the workman was deprived of selection. A union sponsoring the case of work may served a direct notice to the management for absorption of the workman as a result of which conciliation proceeding started and a settlement was arrived at between the parties that the workman will be given employment in clause IV gangman after passing the medical test etc. on the understanding that whosoever was found to be not genuine it be removed from the service. For medical test of category B-1 he was not found medically fit hence he could not be given regular appointment as per settlement. After which the workman applied for absorption in alternative category requiring lower medical standard for classification C-2. The candidate was not eligible for that as he has not fulfilled the condition as minimum six years of service in the railway required for the post. The management has vehemently denied that workman ever worked after empanellment in 1970 and if he really worked till 85 he must prove the same.

The workman summoned the service record, penal of regular and casual register pertaining to year 1965 to 75 of P.W.I. Bancharawa, Unchahar and Raibareli and these records were never produced. In his requisition application the workman stated that he was not given any memo card by Asstt. Engineer Northern Railway, Raibareli and his penal list was not furnished to him. He consequently summoned casual labour card service record penal list attendance register of P.W.I. Unchahar Raibareli and Bancharawa 65 to 71 and casual labour register of the same P.W.I. for the same period. Despite summoning the same the management did not produce the same and had been taking time on one ground or the other. Ultimately the case was ordered to proceed ex parte on 4-1-85 against the management. The management got the same set aside at cost Rs. 25 on 30-8-85 and neither cost was paid nor any one appeared for the management. On the next date cross of workman was concluded and 6-4-85, was fixed for filing management affidavit and production of document. Management sought time to file affidavit etc. which was allowed on cost on next date i.e. 19-4-85 none appeared and the case was ordered to proceed ex parte. On 9-5-85 ex parte arguments were heard. On next date i.e. 10-5-85 the management moved an application for reviewing the order and the same was ordered to be put up on 30-5-85. The court did not sit that day and the case was put up on 26-6-85.

when none appeared then the same was put up on 28-6-85 and on that date none appeared and neither the cost was paid nor tendered, hence ex parte arguments were heard.

From the admission made in the written statement so much is admitted by the management that another man representing as Gurdin son of Ram Nath was given permanent appointment on 1.7.75. On agitation by the union, the management decided to give workman also permanent assignment but he could not get any assignment as he failed in category B-1. He however joined medical test for category C-2 meant for Gateman, Chowkider, Mali etc., but could not be given assignment as he has not put in 6 months service in railway.

The representative for the workman has argued that under rule 2501 Chapter XXV of the Indian Railway Establishment Manual, the workman after having worked as casual labour for 6 months was entitled to c.p.c. scale rate i.e. monthly rate wages and as the work on line was not of project work he acquired a right of regular absorption after having worked for more than 240 days. It was on that account that he was empanelled and his name was placed at serial no. 425 for regular absorption. In the absence of non availability of record summoned workman has testified on oath that he worked upto 1-7-75. The management has admitted that some one else personating Gurdin son of Ramnath took the permanent appointment. The workman had admitted that in 1976 he developed some eye trouble and was hospitalised and when he went to join his assignment in June 76 he was not given work. He has denied that after 1971 he never worked in the railway. At learning that an imposter has been given a permanent assignment at his place he moved an application to the Asstt. Engineer on 16-2-80. He has further stated that he had gone for work in 1973 but was not given work and was visiting the P.W.s. Office very often, and he has testified that recruitment were made at Raibareli, Bancharawa and Unchahar but he was not given work. He has further testified that on his representation he was called by A.E. and on his quarry if any one recognises the workman he had told him that 8 P.W.s and Mistri Ramfer recognises him. He has however admitted that he was sent for medical test in 1981 and had failed.

Be it as it may when the workman was empanelled on the basis of his long previous service and also at C.P.C. scale rate, the workman should have been given regular appointment on that basis. Even if he failed for category B-1 he should have been given permanent alternative assignment of lower grade i.e. C-2 and given a post of gateman chowkidar or mali. The workman should have been given first and only after his refusal fresh hands should be recruited. Not providing employment to Gurdin from 1-7-75 when he approached the P.W.I for work when his name was empanelled will amount to illegal and unlawful retrenchment. Admittedly he was not paid any retrenchment compensation, thus in view of the law laid down in L. Robert De. Souza Vs. Executive Engineer Southern Railway, 1982 S. C. Cases L&S page 121, the termination would be void ab initio has the workman would be entitled to reinstatement from 1-7-75 with full back wages.

It is common ground that the workman was employed in 1970 and his name was placed at serial No. 425 and he has proved that he worked till June, 76. The workman has deposed that he had gone for duty in June 76. when he was not given duty. On account of being empanelled and having worked continuously and on account of the fact that fresh hands were recruited thereafter the termination of the workman from June 76 was illegal as that could have been done only after giving him retrenchment compensation. In D.C.M. Versus S. M. Mukherjee 1978 Supreme Court cases L&S page 1 it was held :

Striking off the name of the workman from the rolls by the management in termination of his service. Such termination of service is retrenchment within the meaning of Section 2(oo) of the Act. There is nothing to show that the provisions of sec. 25F (a) and (b) were complied with by the management in this case. The provisions of sec. 25F (a) the proviso apart and (b) are mandatory and any order of retrenchment in violation of these two preceptory conditions precedent is invalid.

Thus the workman is entitled to be reinstated with full back wages but only from 1-7-75 as mentioned in the reference order but payable after June 76 i.e. from 1st July, 76.

557 GI/85—7

I therefore, give my award accordingly.

Sd/-

9-7-85.

R. B. SRIVASTAVA, Presiding Officer

Let six copies of this award be sent to the Govt. for publication.

R. B. SRIVASTAVA, Presiding Officer

[No. L-41012/23/83-D.II(B)]

कां० 3826.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार वेस्टर्न रेलवे एण्ड मिनिसट्रेशन के प्रबंधन से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जयपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 12 जुलाई, 1985 को प्राप्त हुआ था।

S.O. 3826.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Jaipur, as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Western Railway Administration and their workmen, which was received by the Central Government on the 12th July, 1985.

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर

केस नं० सी आई टी 5/83

केन्द्र सरकार श्रम मंत्रालय की अधिसूचना सं० एल 41011/

(17) 82-डी II (बी) दिनांक 9-6-83

राष्ट्रीय पश्चिमी रेलवे कर्मचारी परिषद कोटा

बनाम

वेस्टर्न रेलवे कोटा एवं बम्बई

उपस्थित :

संघ की ओर से .

कोई हाजिर नहीं

नियोजन की ओर से :

श्री महेंद्र कुमार

दिनांक अर्थात् .

24-11-84

अर्थात्

केन्द्र सरकार निम्नलिखित विवाद इस न्यायाधिकरण को वास्तविक निपटारा अपने अधिसूचना सं० एल-41011/(17)/82/डी II (बी) दिनांक 9-6-83 के द्वारा औद्योगिक विवाद अधिनियम, 1947 के धारा 10 (1) के अन्तर्गत भेजा है।

"Whether the action of the General Manager, Western Railway Churchgate, Bombay in not giving promotion to Shri R. V. Desai, IHER Gr. III (Rs. 425-640) to IHER Gr. III Rs. 550-750 (R) in accordance with the panel approved by the CPO, W.R., Bombay vide his letter No. E. 1025/32 dated 20-7-83 is justified and legal? If not, to what relief the workman is entitled?"

विपक्षी की ओर से श्री महेन्द्र कुमार उपस्थित। यूनियन की ओर से कोई हाजिर नहीं है। बावजूद सूचना के जो कोई उपस्थित नहीं आया और कोई क्लेम भी प्रस्तुत नहीं हुआ। इससे यह प्रकट होता है कि यूनियन को इस विवाद में कोई रुचि नहीं है। अतः इस रेफरेंस में नो डिस्म्यूट अवार्ड जारी किया जाता है। केंद्र सरकार को सेवा जाये।

श्रीमती मोहनी कपूर, न्यायाधीश
[No. L-41011/17/82-D.II(B)]

कां० 3827.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केंद्रीय सरकार विद्यमान रेलवे के मैनेजर नार्दन रेलवे हज़रतगंज, लखनऊ के नियोजकों और उनके कर्मचारियों के बीच अनुबंध में निहित औद्योगिक विवाद में केंद्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचाट को प्रकाशित करती है, जो केंद्रीय सरकार को 16 जुलाई, 1984 को प्राप्त हुआ था।

S.O. 3827.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal Kanpur as shown in the Annexure in the industrial dispute between the employers in relation to the Divisional Railway Manager, Northern Railway Hazrat Ganj, Lucknow and their workmen, which was received by the Central Government on the 16th July, 1985.

BEFORE SHRI R. B. SRIVASTAVA PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
KANPUR

I.D. No. 241 of 1983

In the matter of Shri Jharihaq and others C/o Shri B. D. Tewari, Zonal President, Uttar Railway Karamchhari Union, Roshan Lal Bajaj Lane Ganesh Ganj, Lucknow.

AND

The Divisional Railway Manager, Northern Railway Hazrat Ganj, Lucknow.

Present:-

Shri B. D. Tewari, for the workmen &
Shri Ravi Jauhari, for the management.

AWARD

1. The Central Government, Ministry of Labour, vide its notification No. L-41011/28/83-D.II.B dated November, 1983, has referred the following dispute for adjudication;

Whether the action of the management of Divisional Railway Manager, Northern Railway, Lucknow in terminating the services of S/Shri Jharihaq, Har Prasad, Ram Udit, Ram Sewak, Ram Sawad and Kalpnath, Gangmen from 14-8-81 is justified? If not, to what relief are the workmen concerned entitled?

2. The case of the workmen is that the workmen mentioned in the reference order are the workmen who had worked under P.W.I. Nihalgar Assistant Engineer Sultanpur and through them under DRM Lucknow and G. M. Northern Railway Baroda House New, Delhi. They had worked from 1972 on from time to time and from 1973 onwards till 16-8-81 continuously as temporary gangmen under the railway administration. They were retrenched by administration on and from 16-8-81 without notice, notice pay or retrenchment compensation. Although the work in that section continues and has been handed over to contractor in some cases. No reason was assigned for retrenchment nor formal letter were issued to them terminating their services and that no information was given to the appropriate government.

3. In conciliation proceeding before the A.L.C. Central Allahabad the Railway Administration admitted that all the

workmen in question had completed more than 240 days in a year. It was further admitted before the A.L.C. that no notice was given to the workmen or any retrenchment compensation was paid to them. All admission were noted down on record and the proceedings were signed by the management representative, workmen representative and the A.L.C. They consequently prayed that they be reinstated.

4. One of the workmen Jharihaq alongwith his affidavit deposing his case that the claim statement filed proceeding before A.L.C. dt. 15-2-83 which is signed by the A.L.C. workmen representative Shri Tewari and Shri Ajit Singh, A.P.O. for D.P.O. Northern Railway, Lucknow. The report shows that in the case of Jharihaq his date of appointment is 2-12-77 and he had put in 303 days service, similarly date of appointment of Shri Har Prasad is 12-12-77 and he had put in 303 days service, Ram Udit's date of appointment is 2-1-78 and he had served the management for 303 days, Shri Ramsewak's date of appointment is 12-12-77 and he had put in service for 303 days, Ram Sawad's date of appointment is 2-12-77 and he had put in 303 days service with the management bank and Kalpnath's date of appointment is 2-12-77 and put in 354 days work with the management railway, the period of working days has been counted in 12 calendar months i.e. 15-8-80 to 14th August, 1981, the date when the services were terminated on the ground that there were no work with the P.W.I. Nihargarh. It is admitted that they were terminated without payment of retrenchment compensation consequently failure report was submitted to the government which resulted to this reference.

5. The case was registered at C.G.I.T. Delhi and despite notice the written statement was not filed there. Ultimately the case was transferred to this court and notices were issued to the management. Mr. Chauhan took notice for the management and later on Shri Ravi Jauhari Law Officer of the management appeared in the case but again no one appeared resulting that the case was ordered to proceed ex-parte on 5th January, 1985. The workman filed affidavit evidence, on the date fixed for ex-parte arguments were heard. The law officer Sr. Ravi Jauhari moved an application for setting aside the ex-parte order which was opposed but despite opposition it was allowed to cost of Rs. 50. On the date fixed again no one appeared and the case was ordered to proceed ex-parte and ex-parte arguments were heard.

6. The workman representative has drawn my attention to ruling Robert Dr. Souza V. Executive Engineer Southern Railway L & S 124 182 I SCC 645 wherein it was held:

The test provided in rule 2501 in Chapter XXV of the Indian Railway Establishment Manual is that for the purpose of determining the eligibility of casual labour to be treated as temporary, the criterion should be the period of continuous work put in by each individual labour on the same type of work and not the period put in collectively by any particular gang or group of labourers. Therefore, if a person belonging to the category of casual labour employed in construction work other than work charged projects renders six months continuous service without a break by the operation of statutory rule the person would be treated as temporary railway servant after the expiry of six months of continuous employment.

7. It was further observed in the above case as follows: Even assuming that he was a daily rated worker, once he rendered continuous uninterrupted service for a period of one year or more within the meaning of section 25F of the act and his service is terminated for any reason whatsoever and the case does not fall in any of the excepted categories, notwithstanding the fact that rule 2505 would be attracted, it would have to be read subject to the provisions of the act. Accordingly, the termination of service in this case would constitute retrenchment and for not employing with preconditions to valid retrenchment the order of termination would be illegal and invalid.

8. In the case of Mohan Lal Vs. Bharat Electronics Ltd. 1981 S.C.C. L&S page 476 wherein it was held:

Termination by the employer of the service of a workman for any reason whatsoever would constitute retrenchment under section 2(oo) except in cases excepted in that section itself.

9. In the case of *Shri B. M. Gupta Versus State of Bengal* 1979 Calcutta High Court wherein it was held as follows :

If the conditions precedent for an order or retrenchment under section 25F are not fulfilled the order of retrenchment is not effective at all, and the same is void abinitio and the relationship between the employer and the employee is not affected by such void retrenchment order and the employee continues to be in service despite the purported order of retrenchment.

10. In view of the admissions before A.L.C. which has been proved by the workmen on affidavit and in view of law discussed the termination of the workmen from 14th August, 1982, being without notice, not ce pay or retrenchment compensation is illegal and abinitio void.

11. The result is that the workmen would be deemed to be in continuous service. The workmen are entitled to be reinstated with full back wages.

12. I, therefore, give my award accordingly.

R. B. SRIVASTAVA, Presiding Officer
C.G.I.T., Kanpur.

Let six copies of this award be sent to the government for publication.

R. B. SRIVASTAVA, Presiding Officer
C. G. I. T., KANPUR.
[No. L-41012/28/83-D.II(B)]

क्रि.अं० 3828.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार में, केन्द्रिय सरकार इम्प्लॉय स्टेट इंश्योरेंस कॉर्पोरेशन हैदराबाद के प्रबंधन से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निविष्ट औद्योगिक विवाद में औद्योगिक अधि-करण, हैदराबाद के पंशट को प्रकाशित करता है, जो केन्द्रिय सरकार को 10 जुलाई, 1985 को प्राप्त हुआ था।

S.O. 3828.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Hyderabad, as shown in the Annexure, in the industrial dispute between the employers in relation to the Employees State Insurance Corporation, Hyderabad, and their workmen, which was received by the Central Government on the 10th July, 1985.

BEFORE THE INDUSTRIAL TRIBUNAL (CENTRAL)
AT HYDERABAD

PRESENT :

Sri J. Venugopala Rao, Industrial Tribunal.
Industrial Dispute No. 68 of 1984

BETWEEN

The Workmen of Employees State Insurance Corporation, Hyderabad (A.P.)

AND

The Management of Employees State Insurance Corporation, Hyderabad (A.P.).

APPEARANCES :

Sr. G. S. Sreeramulu, General Secretary, E.S.I.C. Staff Union, Hyderabad—for the Workmen.

Sri V. Gopala Krishna, Inspector, E.S.I. Corporation, Hyderabad—for the Management.

AWARD

The Government of India, Ministry of Labour, by its Order No. L-15012(3)/83-D. II(B) dated 16th June, 1984 referred the following dispute under Sections 7A and 10(1)(d) of the Industrial Disputes Act, 1947 between the Workmen and the Management of Employees State Insurance Corporation, Hyderabad to this Tribunal for adjudication :

"Whether the action of the Regional Director, Employees State Insurance Corporation, Hyderabad in reverting Shri M. A. Azeem as L.D.C. from 26th February, 1976 and posting him at Hyderabad, when his juniors were officiating as U.D.Cs at Hyderabad is justified? If not, to what relief the workman is entitled?"

This reference was registered as Industrial Dispute No. 68 of 1984 and notices were issued to both the parties.

2. Notice was issued to the workmen to file their claims statement. But in the meanwhile the Management of E.S.I. Corporation wanted to withdraw the case and sought time. The case was adjourned from time and finally on 27th June, 1985 both parties filed a Joint Memo dated 27th June, 1985 stating that the workman is not pressing his claim referred in the reference, in view of the Order No. 138/1985 of the Regional Office, E.S.I. Corporation, Hyderabad, promoting Sri Abdul Azeem as U.D.C. during the period from 26th February, 1976 to 15th January, 1978 which is the reference period. Hence, Award is passed in terms of the Joint Memo filed on 27th June, 1985. A copy of the Joint Memo is enclosed to the Award.

Dictated to the Stenographer, transcribed by him, corrected by me and given under my hand and the seal of this Tribunal, this the 27th day of June, 1985.

Sd/-

Industrial Tribunal

1-7-1985

Appendix of Evidence

NIL

J. VENUGOPALA RAO, Industrial Tribunal
[No. L-15012/3/83-D.II(B)]

BEFORE THE CHAIRMAN INDUSTRIAL TRIBUNAL,
GOVERNMENT OF ANDHRA PRADESH, TILAK ROAD,
HYDERABAD

I.D. Case No. 68/1984

BETWEEN

M. A. AZEEM,
Represented by the General Secretary,
ESIC Staff Union,
Andhra Pradesh,
HYDERABAD

...Appellant.

AND

The Regional Director,
ESI Corporation,
Andhra Pradesh,
HYDERABAD.

...Respondent.

MEMO FILED BY BOTH THE PARTIES

It is represented that in view of the orders dated 11th June, 1985 the workman is not pressing his claim referred to the reference in the above case. Hence, the Hon'ble Tribunal may pass an award in terms of the orders. (Copy en-

closed), vide Orders No. 138/1985 of the Regional Office E.S.I. Corpn., Hyderabad.

Your faithfully,

Sd/-

(G. S. SREERAMULU)

General Secretary

on behalf of the ESIC Staff Union,

A.P., Hyderabad.

Sd/-

V. GOPALAKRISHNAN,

On behalf of ESI Corporation, Hyderabad, A.P.

HYDERABAD :

Dated : 27th June, 1985.

REGIONAL OFFICE, ANDHRA PRADESH
EMPLOYEES' STATE INSURANCE CORPORATION

No. 52-A/22/15/85-Estt. I

dated : 11-6-1985.

OFFICE ORDER NO. 138 OF 1985

Consequent upon sanction of a supernumerary post of UDC by Hqrs. Office vide Lr. No. 52/A/11/11/13/84-E-III, dated 7th June, 1985 as per Andhra Pradesh High Court, order, the Regional Director has ordered that Sri Abdul Azeem, LDC was deemed to have been promoted as UDC during the period from 26th February, 1976 to 15th January, 1978.

Sri Abdul Azeem will be entitled to draw the pay and allowances during the above period as admissible under the rules in the cadre of UDC subject to adjustment of pay and allowances drawn and disbursed already in his respect in the cadre of LDC.

Sd/-

To

K. K. PRASADA RAO, Dy. Regional Director

Sri. Abdul Azeem LDC, L.O. Sanathnagar.

Copy forwarded to :

1. The Regional Accounts Officer/Estt. II. Br. R.O. Hyderabad.
2. The Local Office Manager, Sanathnagar for claiming the difference of arrears in pay and allowances for the above period in the cadre of UDC.
3. Office Order File/Personal File.
4. Legal Branch.

Sd/-

(V. GOPALA KRISHNAN)

Dy. Regional Director

नई दिल्ली, 25 जुलाई, 1985

कां.आ. 3829 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार राजस्थान स्टेट माइन्स एंड मिनेरल्स लिमिटेड बीकानेर के प्रबंधन से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निषिद्ध औद्योगिक विवाद में औद्योगिक अधिकरण जयपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 15 जुलाई, 1985 को प्राप्त हुआ था।

New Delhi, the 25th July, 1985

S.O. 3829.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Jaipur (Rajasthan), as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Rajasthan State Mines and Minerals Limited, Bikaner and their

workmen, which was received by the Central Government on the 15th July, 1985.

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर

केस नं० सी० आई० टी० 5/82

केन्द्रीय सरकार अम मंत्रालय अधिसूचना सं० एल 029012/22/80
डी III बी विनांक 16-1-82

राजस्थान स्टेट माइन्स लिमिटेड कर्मचारी संघ बीकानेर
बनाम

राजस्थान स्टेट माइन्स एंड मिनेरल्स लि० बीकानेर

संघ की ओर से : श्री जे० एल० शाह

नियोजक की ओर से : कोई हाजिर नहीं

दिनांक अर्वाइव : 7-2-85

अर्वाइव

केन्द्रीय सरकार ने निम्नलिखित विवाद इस न्यायाधिकरण को वास्ते निपटारा अपनी अधिसूचना एल० 02912/22/80/डी III (बी) विनांक 16-1-82 के द्वारा औद्योगिक विवाद अधिनियम, 1947 की धारा 10 के अंतर्गत भेजा है :

"1. Whether the management of Rajasthan State Mines and Minerals Limited, Bikaner (Gypsum Division) are justified in not promoting Sarvashri Abdul, Ramazan and Hukamram to the posts of Junior Fitter or to similar category in their Gypsum Mines when their juniors namely Sarvashri Kalu Bhima, Nima Ram and 10 others were promoted as Junior Fitters on various dates in 1979. If not, to what relief are these workmen entitled and from what date ?

2. Whether the management of Rajasthan State Mines and Minerals Limited (Gypsum Division) is justified in denying free electricity to Sarvashri Abdul, Ramazan and Hukamram when the other workers are provided with the same facility. If not, to what relief are the workmen concerned entitled ?"

युनियन की ओर से श्री जे० एल० शाह उपस्थित। विपक्षी की ओर से कोई हाजिर नहीं है। युनियन की ओर से 17-4-84 को श्री रमेश चन्द्र गुप्ता उपाध्यक्ष ने आवेदन प्रस्तुत कर दिया था कि संबंधित कर्मचारी इस विवाद में कोई कार्यवाही नहीं चाहते और नोटिस्स्यूट अर्वाइव पारित कर दिया जाये। श्री शाह ने इसका अनुमोदन किया। अतः केन्द्र सरकार द्वारा भेजे गये इस रेफरेन्स में नोटिस्स्यूट अर्वाइव पारित किया जाता है। अर्वाइव केन्द्र सरकार को भेजा जाये।

श्रीमति मोहनी कपूर, न्यायाधीश

नई दिल्ली, 30 जुलाई, 1985

कां.आ० 3830 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, नारदन रेलवे, लखनऊ के प्रबंधन से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निषिद्ध औद्योगिक विवाद में औद्योगिक अधिकरण, कानपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 16 अगस्त, 1985 को प्राप्त हुआ था।

New Delhi, the 30th July, 1985

S.O. 3830.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur, as shown in the Annexure, in the industrial dispute between the employer in relation to the management of Northern Railway, Lucknow and their workmen, which was received by the Central Government on the 16th July, 1985.

BEFORE SHRI R. B. SRIVASTAVA PRESIDING OFFICER
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
CUM LABOUR COURT, KANPUR

I.D.Nos. 7/1984 and 12/1984

In the matter of dispute between :

Shri Ram Kishan C/o Shri B. D. Tewari, Zonal President,
Roshan Bajaj Lane, Ganesh Ganj, Lucknow &
Shri Nijammuddin C/o Shri B.D. Tewari, Zonal President,
Roshan Bajaj Lane, Ganesh Ganj, Lucknow

And

The Northern Railway, Hazrat Ganj, Lucknow.

AWARD

I.D. Case No. 7/1984 :

The Central Government, Ministry of Labour, vide its notification No. L-41012/28/83-D-II.B dated 13-1-1984 has referred the following dispute for adjudication :

Whether the action of the Railway Administration in relation to the Division Railway Manager, Northern Railway, Hazratganj, in not absorbing Shri Ram Kishan son of Shri Ramjivan Gangman, under P.W.I. Nihalgarh and terminating his services from 28-2-81 is justified. If not, to what relief is the workman concerned entitled ?

I.D. Case No. 12/84

The Central Government, Ministry of Labour, vide its notification No. L-41011/30/83-II.B dated 21st January, 1984 has referred the following dispute for adjudication :

Whether the action of the management of Northern Railway in relation to Divisional Railway Manager, Lucknow not absorbing and terminating the services of Shri 1. Sri Nijammudin, 2. Ram Das, 3. Ram Chandra, 4. Srinarain, 5. Chorounji Lal, 6. Ram Nath & 7. Daya Ram Ganguman from 14-2-81 is justified ? If not to what relief are the workmen concerned entitled ?

1. In both the cases claim statement filed by the workmen and affidavit evidence was also filed by them. Despite information the management did not file written statement hence the case proceeded *ex parte* on the application of the representative for the workman. The two cases were consolidated. Subsequently the order to proceed *ex parte* was set aside and the management filed written statement. Beside written statement the management also filed affidavit evidence ultimately the cross of the management witness and the workmen witnesses was concluded. On the date of the argument i.e. 28-6-85 the workman representative argued as the entire case was concluded and the evidence was recorded the case was reserved for award.

2. In both the cases the claim statement is almost similarly. The case is that the workman Ram Kishan, Nijammudin and other seven persons named alongwith them in the reference order were the workmen who worked under the permanent way inspector Nihalgarh, Assistant Engineer Distt. Sultanpur, and thus were the workmen of the management and they worked from 1972 onward from time to time and from 1973 till 16-8-81 continuously as temporary Gangmen under the

railways authorities mentioned above. They were refrained by the railway management opposite party on and from 16-8-81 without notice and without payment of retrenchment compensation and notice pay although the work in that section continues. No reasons were assigned for retrenchment, no formal letter was issued to the workman denoting the termination of the services and no information was given to the appropriate government in the conciliation proceedings before the A.L.C. (Central). The administration admitted that all the workmen had completed more than 240 days in each year preceding, although the record pertaining to the year 1972 to 1978 were not produced it was further accepted that no notice, notice pay or retrenchment compensation was given to them. Thus retrenchment is illegal *ultra vires*, non existence and the workmen services had not to ceased and they are entitled to reinstatement with full back wages and consequential benefits.

3. The management has filed written statement in both the cases separately but as the two cases have been consolidated the written statement and the evidence etc., is on the record of I.D. No. 7/1984.

4. The case of the management as regards workman Ram Kishan is that he never completed 240 days in one preceding year and left job on 28-1-81. That the workman was casual labour and not railway servant in the eye of law. That the workman was engaged for specified period which was very well known to the workman.

In the case of Shri Nijammudin written statement filed by the management also speaks that after completion of the work on which the workman have been engaged their services automatically come to an end. Thus they had full knowledge about the termination of work. Further a notice was given to the workmen on 15-7-81 and he refused to accept. The moment the work of casual labour completed there remains no necessity to retain them without any work as the same amounts wastage of public funds. The intention rate of temporary servants after completion of 240 days does not arise in case of casual worker as such they are not entitled to the relief claimed.

6. The case of the workman Ram Kishan is slightly different from the case of Shri Nijammudin and others who are workmen of I.D. No. 12 of 1984.

7. Alongwith his affidavit he has filed annexure I details showing his working days as casual labour under Permanent Way Inspector Nihalgarh, Sultanpur. This shows that from January, 78 till 28 February, 81 he worked as casual labour for 318 days. Thus in one span of year counting from 28-2-81, the workman worked for 199 days. Workman has further filed his service card showing that he worked from 15-2-81 to 20-3-81 for 16 days, thus if these two days are added the total working days of the workman comes to 201 days. The workman has further filed discharge certificate of Balrampur Hospital Lucknow showing that he admitted in the hospital on 2-3-81 and was discharged from there on 15-4-81. He was admitted as surgical case and was operated on 10-3-81 and if this period of admission in the hospital i.e. 43 days is counted as duty his working period comes to 244 days but counting back ward from 15-4-81 for previous 12 months, the working days comes to 213 days. The workman never appeared in the witness box to depose as to how he completed 240 days. The representative for the workmen has conceded that Ram Kishan worked in all only 218 days.

8. On behalf of the management Shri R. C. Asthana appeared in the witness box. He has filed termination notice dated 15-7-81. The management witness stated in cross examination that copy of the termination notice have not been filed despite mentioned in affidavit para (i) Voluntarily said that the same was left out inadvertently and he was filing today. The workman did not accept the notice hence they were not paid one month's pay in lieu and no retrenchment compensation was paid at that time. Later on under the orders of the Divisional Personnel Officer, Lucknow retrenchment compensation was prepared for 15 days pay but the same can not be given to the workman who was not available and the same is lying. He has admitted that it is a fact that on the day of termination Sri Nijammudin had completed 304 days work and Ram Kishan had also put in more than 120 days of work. He further admitted

that staff of Permanent Way Inspector is open line staff and Nijammudin and Ram Kishan both were working under P.W.I. Nihalgarh. He has further admitted that workman Nijammudin was being paid at C.P.C. scale rate from March 1981. It may be mentioned here that C.P.C. scale is paid to casual labour if they had completed six months continuous service. Ram Kishan workman was not paid C.P.C. scale rate as he never turned after 21-1-81. According to him in the annexure filed alongwith affidavit of Ram Kishan the date of last working day shown as 28-2-81 is wrong and it should be 28-1-81. I am not inclined to believe this part of statement of the management witness as annexure 1 in which the last working day is shown as 28-2-81 and issued under the railway authority stands corroborated by entry in annexure 5, the casual labour card wherein the last working days is shown as 2-3-81 and not 28-2-81 and it was on this 2-3-81 that the workman was admitted in hospital for operation of lung in right side of abdomen. He has however admitted that the total working days of 318 in annexure 1 is correct. He had further stated that he had no knowledge that the workman was in the hospital from 2-3-81 to 15-4-81 as the attendance of the workers was maintained by P.W.I. He has further expressed his inability that Ram Kishan got injured on duty and from there he was sent to the hospital. He has also no knowledge if duty was given to the workman when he appeared on 15-4-81 for duty with medical fitness certificate. He has further admitted that in the year 1982-83 fresh persons were appointed from the seniority list and written information was not sent to those who were workmen at the time of retrenchment. He further stated that the name of Sri Nijammudin was struck from the role from 14-8-81 as there was no sanction beyond that day, and that he had not brought the muster role of Ram Kishan hence he is unable to say on what date his name was struck off from there. He has also not brought the seniority list. In the end he stated that all the workmen alongwith Nijammudin were terminated sanction has come to an end.

9. On behalf of the workman Sri Nijammudin has examined himself and he has deposed that he was appointed under P.W.I. Nihalgarh Sultanpur for work at Railway Lines for its repair on 5-3-78 and continuously worked for more than a year. That the work was finished and it was on that account that he was asked not to come on duty. He has further stated that he was not given any notice, or notice pay before completion of the work. He has however admitted that a notice was being given to him that the work was going to finish to which he refused to accept with plea that others are being given work why are we not being given work and Ram Lakhan, Gaya Prasad etc., are working. Notice dated 15-7-81 filed by the witness on the date of his cross examination which was read out to the witness. He accepted that such a notice that filed by them (management) was being given to them which he refused to accept. In the end he accepted that he did not get baithaki pay and that he was working as well after termination.

10. Thus being admitted that Shri Nijammudin and others were told that their services came to an end from 14-8-81 and that the same was readover to them, the termination of the workmen was not justified as admittedly all of them had completed more than 240 days of service vide conciliation report passed by Asstt. Labour Commissioner (Central) Allahabad and signed by the workmen representative and Assistant Engineer Nihalgarh, Sultanpur and A.P.O. for Divisional Personnel Officer, Northern Railway Lucknow., filed alongwith the affidavit of Sri Nijammudin workman.

11. In the case of Robert De. Souza Vs. Executive Engineer Southern Railway 1982 S.C. L & S page 131 it was held;

The test provided in rule 2501 in Chapter XXV of the Indian Railway Establishment Manual is that for the purpose of determining the eligibility of casual labour to be treated as temporary, the criterion should be the period of continuous work put in by each individual labour on the same type of work and not the period put in collectively by any particular gang or group of labourers. Therefore, if a person belonging to the category of casual labour employed in construction work other than work charged projects renders six months continuous service without a break, by the operation

of statutory rule the person would be treated as temporary railway servant after the expiry of six months of continuous employment. It is equally true of even seasonal labour.

12. It is admitted that the workman Sri Nijammudin and his other co-worker were paid monthly C.P.C. rate after completion of six months of service thus they were temporary and once they were temporary and they had completed 240 days work before termination of their services on 14-8-81 their services would have been terminated without payment of retrenchment compensation, notice pay etc., and as all this was not done they will be deemed to be having in service and would be entitled to be put back with full back wages.

13. As regards workman Ram Kishan he should have been taken on duty when he filed his fitness certificate after return from the hospital on 15-4-81. Further if retrenchment was necessary persons junior to him should have been despatched with and not the workman Ram Kishan. It has also come in evidence that subsequent appointment were made in the year 1982 and 1983 and Ram Kishan workman should have been given a chance even on that time. In the case of Shri S.K. Chatterjee Versus District Singal Telecommunication Engineer 1970 LAB. I.C. Patna High Court Vol. 3. C.N. 147 wherein it was held;

The industrial rule of retrenchment that last come first go as laid down in section 25-G is to be applied unit-wise and if the rules have not been followed in the matter of retrenchment, the workmen are entitle to reinstatement.

14. Thus workman Ram Kishan even though he had not completed 240 days should have been retained in service or he should have been given appointment when he returned and appeared with fitness certificate and other junior most should have been terminated. The result is that his termination w.e.f. 28-2-81 or thereafter was not justified and he should have been absorbed in the management service.

15. The said termination being illegal the workman Shri Ram Kishan will be deemed in service and would be reinstated.

I, therefore, give my award accordingly in the two consolidated cases. Let a copy of Award be placed on the record of I.D. No. 12/1984.

Sd/-

R.B. SRIVASTAVA, Presiding Officer
C.G.I.T., Kanpur.

17. Let six copies of this award be sent to the Government for publication.

R. B. SRIVASTAVA, Presiding Officer
[No. L-41012/28/83-D. II(B)]

नई दिल्ली, 1 अगस्त, 1985

का. आ. 3831—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) के द्वारा 17 के अनुसरण में, केन्द्र सरकार मैसर्स आर. बी. सेठ मूलचन्द नैमीचन्द (प्रा.) लि. हाकधर मण्डल, जिला भलवाड़ा के प्रबंधन से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निविष्ट औद्योगिक विवाद में औद्योगिक अधिकरण जयपुर के संघाट को प्रकाशित करत है, जो केन्द्र सरकार को 12 जुलाई 1985 को प्राप्त हुआ था।

New Delhi, the 1st August, 1985

S.O. 3831.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Jaipur (Rajasthan), as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Messrs R. B. Seth Moolchand Nomichand (Private) Limited, P.O. Mandal, Distt. Bhilwara and their workmen, which was received by the Central Government on the 12th July, 1985.

ANNEXURE

CENTRAL INDUSTRIAL TRIBUNAL, RAJASTHAN,
JAIPUR

Case No. C.I.T. 23/84

REFERENCE :

Desk Officer, Government of India, Ministry of Labour
Order No. L-26012/23/83-D.III(B), dated December, 1983.

In the matter of an industrial dispute.

BETWEEN

General Manager, M/s. R. B. Sethi Moolchand Nemi-
chand Pvt. Ltd. P.O. Mandal 311403 Distt. Bhil-
wara), Rajasthan.

AND

Secretary, Khan Mazdoor Congress, Gandhi Mazdoor
Sewalaya, Bhilwara.

PRESENT :

Mrs. Mohini Kapur, R.H.J.S.
For the Khan Mazdoor Congress—None.
For the Opposite party—None.
Date of Award—9-1-85.

AWARD

The Central Government has referred the dispute about the termination of the services of Shri Kishan Singh, Chowkidaar who was employed in the mines of M/s. R. B. Sethi Moolchand Nemichand (P) Ltd. The intimation about the reference was sent to the union which espoused the cause of the workman and to the employer but no one has appeared. The employer has sent a letter that a settlement has been arrived at with the workman Kishan Singh who has been paid a sum of Rs. 600. The employer has written that the union was informed about the settlement.

2. As no one has appeared before me and there is no claim on behalf of the workman and the contention of the management is that the dispute has been settled. I pass a no dispute award in the dispute referred to this Tribunal. Award be sent to the Central Government for publication.

MRS. MOHINI KAPUR, Presiding Officer,
[No. L-26012/23/83-D.III(B)]

का. प्रा. 3832—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) के धारा 17 के अनुसरण में, केन्द्रिय सरकार राजस्थान स्टेट माइंस और मिनेरल्स बीकानेर लि. के प्रबंधन से सम्बन्धित नियोजकों और उनके कर्मचारियों के बीच अनुबंध में निश्चित औद्योगिक विवाद में औद्योगिक अधिकरण, जयपुर के पंचाट को प्रकाशित करने है, जो केन्द्रिय सरकार को 16 जुलाई 1985 को प्राप्त हुआ था।

S.O. 3832.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby published the award of the Industrial Tribunal, Jaipur as shown in the Annexure in the industrial dispute between the employers in relation to the management of Rajasthan State Mines and Minerals Bikaner Limited and their workmen, which was received by the 16th July, 1985.

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर

केस नं. सी आई. टी. 02/83

केन्द्रीय सरकार अम मंत्रालय अधिसूचना एल.

2911(44)181-बी III(बी) दिनांक 19-3-83

आर० एस० एस० एन० कर्मचारी संघ, बीकानेर

विवरण

राजस्थान स्टेट माइंस एंड मिनेरल्स लि० बीकानेर

संघ की ओर से :

श्री जे. एस. शाह

नियोजक की ओर से.

कोई नहीं

दिनांक अर्वाह.

7-2-85

अर्वाह

केन्द्र सरकार निम्नलिखित विवाद इस न्यायाधिकरण की बादी निपटारा अपनी अधिसूचना ए. 2911(44)/81-III(बी) दिनांक 19-3-83 के द्वारा औद्योगिक विवाद अधिनियम, 1947 की धारा 10 (1) के अंतर्गत भेजा है :

"a. Whether the demand of village piece rated workers in Jamsar mines of Rajasthan State Mines and Minerals Limited, Bikaner for neutralisation of cost of living by increasing their wages periodically is justified.

b. Whether the demand of the village piece rated workers in Jamsar Mines of Messrs Rajasthan State Mines and Minerals Ltd., Bikaner for payment of leave and holidays wages, bonus and provident fund and lay off and retrenchment compensation their average earnings is justified. If not, to what relief are the workman entitled."

यूनियन की ओर से श्री जे. एस. शाह उपस्थित/विपक्षी की ओर से कोई हाजिर नहीं है। यूनियन की ओर 17-4-84 को श्री रमेश चन्द्र गुप्ता, उपाध्यक्ष ने आवेदन प्रस्तुत कर विपक्षी कि संबंधित कर्मचारी इस विवाद में कोई कार्यवाही नहीं चाहते और नो डिस्प्यूट आई पारित कर दिया जाये। श्री जे० एस० शाह ने इसका अनुमोदन किया अतः केन्द्र सरकार द्वारा भेजे गये हम रेफरेंस में नो डिस्प्यूट अर्वाह पारित किया जाता है। अर्वाह केन्द्र सरकार को भेजा जाये।

श्रीमति मोहनी कपूर, न्यायाधीश
[No. 29011/44/83-D-III(B)]

नई दिल्ली, 2 अगस्त 1985

का. प्रा. 3833—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) के धारा 17 के अनुसरण में, केन्द्रिय सरकार (1) राजस्थान स्टेट माइंस एंड मिनेरल्स लिमिटेड, जामसर डिबिजन, बीकानेर (2) श्री मेगा राम, लोडिंग कन्ट्रैक्टर रेलवे स्टेशन, हनुमान गढ़ टाउन (3) श्री फजल शाह, लोडिंग कन्ट्रैक्टर, रेलवे स्टेशन, हनुमान गढ़ टाउन (4) श्री वाज़िर शाह, लोडिंग कन्ट्रैक्टर, जमसर (बीकानेर) के प्रबंधन से सम्बन्धित नियोजकों और उनके कर्मचारियों के बीच अनुबंध में निश्चित औद्योगिक विवाद में औद्योगिक अधिकरण जयपुर के पंचाट को प्रकाशित करने है, जो केन्द्रिय सरकार को 16 जुलाई 1985 को प्राप्त हुआ था।

New Delhi, the 2nd August, 1985

S.O. 3833.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Jaipur, in the industrial dispute between the employers in relation to the management of Rajasthan State Mines and Minerals Limited, Gypsum Division, Bikaner, (2) Shri Magga Ram, Loading Contractor, Railway Station, Hanumangarh Town, (3) Shri Fazal Shah, Loading Contractor, Railway Station, Hanumangarh Town, (4) Shri Wazir Shah, Loading Contractor, Jamsar (Bikaner) and their workmen, which was received by the Central Government on the 16th July, 1985.

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर

केस नं. सी. आई. टी. 11/81

केन्द्र सरकार, श्रम मंत्रालय की अधिसूचना सं. एल. 2911/10/78-III, (बी) दिनांक 11-8-81

बनाम

राजस्थान स्टेट माइन्स एंड मिनरल कर्मकारी संघ जयपुर

बनाम

राजस्थान स्टेट माइन्स एंड मिनरल लि., जिप्सम डिविजन

संघ की ओर से : श्री को. एल. शाह

नियोजक की ओर से : कोई हज़िर नहीं

दिनांक अर्वाह : 7-2-85

अर्वाह

केन्द्र सरकार निम्नलिखित विवाद इस न्यायाधिकरण के वास्ते निपटारा अपनी अधिसूचना सं. एल. 2911/10/78-III (बी), दिनांक 11-8-81 के द्वारा औद्योगिक विवाद अधिनियम, 1947 की धारा 10(1) के अंतर्गत भेजा है :

1. Whether the demand of the workman engaged through M/s. Magga Ram Fazal Shah and Wazir Shah, Loading Contractors of M/s. Rajasthan State Mines and Minerals Ltd., Gypsum Division, Bikaner for payment of bonus for the years 1974-75 and 1975-76 at the same rate at which it was paid to the workmen directly engaged by M/s. Rajasthan State Mines and Minerals Ltd., is justified? If so, to what relief the workmen are entitled and by whom?
2. Whether the demand of the workmen engaged through M/s. Magga Ram Fazal Shah and Wazir Shah, Loading Contractors of M/s. Rajasthan State Mines and Minerals Limited, Gypsum Division, Bikaner for increase in wages Rs. 3/- per tonne with effect from 1-4-76 keeping in view the minimum wages paid to the workman directly engaged by M/s. Rajasthan State Mines and Minerals Limited, is justified? If so, to what relief the workmen are entitled and by whom?
3. Whether the demand of the workmen engaged through M/s. Magga Ram Fazal Shah and Wazir Shah, Loading Contractors of M/s. Rajasthan State Mine and Minerals Ltd., Gypsum Division, Bikaner for grant for same quantum of leave and holiday as granted to the workman directly employed by M/s. Rajasthan State Mines and Minerals Limited, is justified? If so, what relief the workmen are entitled and from what date?"

यूनियन की ओर से श्री को. एल. शाह उपस्थित। विपक्षी की ओर से कोई हज़िर नहीं है। यूनियन की ओर 17-4-84 को श्री रमेश चन्द्र शुक्ला उपाध्यक्ष ने आवेदन प्रस्तुत कर दिया था कि संबंधित कर्मचारी इस विवाद में कोई कार्यवाही नहीं चाहते और नो डिस्टर्ब आर्वाइ पारित कर दिया जाये। श्री जे. एम. शाह ने इसका अनुमोदन किया। अतः केन्द्र सरकार द्वारा भेजे गये हम रेफरेंस में नो डिस्टर्ब आर्वाइ पारित किया जाता है। अर्वाह केन्द्र सरकार को भेजा जाता है।

मोहिति कपूर, न्यायाधीश

[No. L-29011/10/78-D.III(B)]

HARI SINGH, Desk Officer

नई दिल्ली, 22 जुलाई, 1985

कां.आ. 3835—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्र सरकार, पंजाब नेशनल बैंक जयपुर के प्रबंधक से सम्बन्धित नियोजक और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट

औद्योगिक विवाद में औद्योगिक अधिकरण, जयपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 16 जुलाई, 1985 को प्राप्त हुआ था।

New Delhi, the 22nd July, 1985

S.O. 3834.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Jaipur as shown in the Annexure in the industrial dispute between the employers in relation to the Punjab National Bank, Jaipur, and their workmen which was received by the Central Government on the 16th July, 1985.

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर

केस नं. सी. आई. टी. 1/84

केन्द्र सरकार, श्रम मंत्रालय की अधिसूचना सं. एल.-12012/161-83-डी II (ए) दिनांक 23-12-83

राज्य बैंक एम्प्लो यूनियन, जोधपुर

बनाम

पंजाब नेशनल बैंक, जयपुर

उपस्थित :

संघ की ओर से : कोई हज़िर नहीं

नियोजक की ओर से : कोई हज़िर नहीं

दिनांक अर्वाह : 19-3-85

अर्वाह

केन्द्र सरकार निम्नलिखित विवाद इस न्यायाधिकरण के वास्ते निपटारा अपनी अधिसूचना सं. एल. 12012/161/83-डी-II (ए) दिनांक 23-12-83 के द्वारा औद्योगिक विवाद अधिनियम, 1947 की धारा 10(1) के अंतर्गत भेजा है :

"Whether the action of the Management of Punjab National Bank, Regional Office, Jaipur in relation to their NGH Road, Branch, Jodhpur in the debarring Smt. Ram Kanya Garg, Clerk-cum-Cashier officiating as Cashier Incharge with effect from 22-12-82 for a period of one year is justified? If not, to what relief is the workman concerned entitled?"

यूनियन की ओर से कोई उपस्थित नहीं है। यूनियन को रजिस्ट्री द्वारा नोटिस भेजा गया था पर बाबजूद नार्मल कोई उपस्थित नहीं हुआ इस विवाद में स्टेटमेंट आप क्लेम भी प्रस्तुत नहीं हुआ है। स्पष्ट है कि यूनियन को इस विवाद में रुचि नहीं है।

अतः इस विवाद में नो डिस्टर्ब आर्वाइ पारित किया जाता है। केन्द्र सरकार को यह अर्वाह भेजा जाये।

श्रीमति मोहनी कपूर, न्यायाधीश

[No. L-12012/161/83-D.II(A)|D.IV(A)]

को.जे. देवप्रसाद डेस्क ऑफिसरी

नई दिल्ली, 24 जुलाई, 1985

का. आ. 3835—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ओरियंटल बैंक ऑफ कॉमर्स, नई दिल्ली के प्रबंधक से सम्बन्धित नियोजक और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में, केन्द्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली को पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 17 जुलाई, 1985 प्राप्त की हुआ था।

New Delhi, the 24th July, 1985

S.O. 3835.—In pursuance of section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, New Delhi as shown in the Annexure in the industrial dispute between the employers in relation to the Oriental Bank of Commerce, New Delhi and their workmen, which was received by the Central Government on the 17th July, 1985.

BEFORE SHRI O. P. SINGLA : PRESIDING
OFFICER : CENTRAL GOVT. INDUSTRIAL TRI-
BUNAL : NEW DELHI

I.D. No. 36/1982

In the matter of dispute between :

Shri K. K. Kapoor S/o Shri Sahib Dayal Kapoor,
r/o 299 Type III, Sector I, Sadiq Nagar,
New Delhi.

VERSUS

The Management of Oriental Bank of Commerce,
New Delhi.

APPEARANCES :

Shri S. N. Bhatnagar for the Management.
None for the workman.

AWARD

Central Government, Ministry of Labour on 19th March, 1981 vide No. L-12012/137/80-D.II(A) made reference of the following dispute to this Tribunal for adjudication :

“Whether the action of the management of Oriental Bank of Commerce, New Delhi in terminating the employment of Shri K. K. Kapoor w.e.f. 19-4-1980 without issue of charge sheet or initiating disciplinary proceedings is justified? If not, to what relief the workman is entitled?”

2. Mr. K. K. Kapoor joined the clerical cadre of the Oriental Bank of Commerce, New Delhi on 10th of September, 1959. He worked in various branches. His services were terminated by the Management vide letter dated 16-4-80 issued by Shri R. C. Juneja, Joint General Manager under para 522(1) of the Sastry Award w.e.f. 19-4-80. The workman has claimed that his services could not be terminated in that manner and he has demanded reinstatement with full back wages and continuity of service. The Management was said to have not complied with provision of section

25-F of the Industrial Disputes Act, 1947 and to have conducted no departmental enquiry against the workman. Three months pay and allowances were tendered to the workman by a cheque dated 16-4-80 for Rs. 5895.

3. The Management of Oriental Bank of Commerce contested the claim and asserted that the termination of service of the workman was by virtue of para 522(1) of All India Industrial Tribunal Bank Disputes Award (Popularly known as Sastry Award) and was on account of loss of confidence in the workman. He was implicated in a criminal case filed by the S.P.E. under section 120-B, read with sections 420, 467, 468, 471, 477A and 201 of Indian Penal Code for abatement and committal of forgery. He was suspended from the bank service on 24-1-76 on the basis of intimation of the charge-sheet having been filed by the Special Police Establishment of C.B.I. against him and others. The Management considered his continuance in service as detrimental to the Bank's interest and the customers interest and on account of grave charges levelled against him the bank earned a bad name and lost confidence in Mr. K. K. Kapoor. The bank action was said to be bone fide.

4. The matter has been tried. The Management has filed affidavit that K. K. Kapoor after termination of service with the bank was running a business collectively with some other persons in the name and style of M/s. Maharani Traders, 63 at third floor above New Marwari Katra, Nai Sarak, Delhi-6 and they deal with in wholesale business of cloth and operated as Commission Agents. S. N. Bhatnagar in his affidavit stated that he had himself seen K. K. Kapoor business establishment at the said place and he reasonably and conservatively estimated K. K. Kapoor's earnings as above Rs. 3000/- PM as share of proceeds from the said business and for that reason Mr. Kapoor was not entitled to any relief of back wages or compensation in view of his gainful employment.

5. There is no evidence or affidavit by K. K. Kapoor to contest the alleged gainful employment of the workman after termination of service with the bank.

6. In the circumstances aforesaid, the workman is not entitled to any relief. Even if it is accepted that his service could not be terminated by the Management without giving him retrenchment compensation on account of his having served the Management for a period of a number of years, relief can be availed of only by a person who is unemployed or has no income but according to affidavit filed by the Management the income of the workman from his business is more than the salary that was being paid to him by the Management. Accordingly even if the termination of service of the workman is seen to be in contravention of section 25-F of the I.D. Act, 1947, the Management has discharged the onus of proof by affidavit filed by the workman his earning above Rs. 3000/- PM as share of proceeds from the business in the name and style of M/s. Maharani Trades, 63 (third floor) above New Marwari Katra, Nai Sarak, Delhi-6. The workman, therefore, is not entitled to any relief and the Award is made accordingly.

Further it is ordered that the requisite number of copies of this Award may be forwarded to the Central Government for necessary action at their end.

O. P. SINGLA, Presiding Officer
[No. L-12012/137/80-D.II(A)/D.IV(A)]

K. J. DYVAPRASAD, Desk Officer

July 15, 1985.

नई दिल्ली, 29 जुलाई, 1985

का. अ. 3836—संसद के एक अधिनियम के अधीन स्थापित एक निकाय खादी और ग्रामोद्योग आयोग ने, अपने उन नियमित कर्मचारियों की बाबत जो खादी और ग्रामोद्योग कर्मचारी (पेंशन) विनियम, 1984 के अधीन पेंशन और मृत्यु तथा सेवा-निवृत्ति उपदान लेना चाहते हैं, उपदान संदाय अधिनियम, 1972 (1972 का 39) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 5 के अधीन छूट के लिये आवेदन किया है :

और केन्द्रीय सरकार की यह राय है कि खादी और ग्रामोद्योग के उन नियमित कर्मचारियों को, जो खादी और ग्रामोद्योग कर्मचारी (पेंशन) विनियम, 1984 के अधीन पेंशन और मृत्यु तथा सेवा निवृत्ति उपदान लेना चाहते हैं, संदेय उपदान फायदे उक्त कर्मचारियों के लिये उन फायदों से कम अनुकूल नहीं हैं जो उक्त अधिनियम के अधीन प्रदत्त किये गये हैं;

अतः अब केन्द्रीय सरकार उक्त अधिनियम की धारा 5 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, खादी और ग्रामोद्योग, बम्बई के उन नियमित कर्मचारियों को, जो खादी और ग्रामोद्योग कर्मचारी (पेंशन) विनियम, 1984 के अधीन पेंशन और मृत्यु तथा सेवा निवृत्ति उपदान लेना चाहते हैं, इस अधिसूचना के राजपत्र में प्रकाशन की तारीख से तीन वर्ष की अवधि के लिये निम्नलिखित शर्तों के अधीन उक्त अधिनियम के उपबंधों के प्रवर्तन से छूट देती है, अर्थात् :—

- (1) यदि खादी और ग्रामोद्योग कर्मचारी (पेंशन) विनियम, 1984 के कार्यान्वयन की बाबत कोई विवाद उत्पन्न होता है तो उक्त अधिनियम के अधीन नियंत्रक प्राधिकारी और अपील प्राधिकारी को मध्यस्थता करने और उक्त अधिनियम के उपबंधों के अनुसार उसका अवधारण करने की शक्ति होगी;
- (2) खादी और ग्रामोद्योग कर्मचारी (पेंशन) विनियम, 1984 में केन्द्रीय सरकार की लिखित पूर्व अनुज्ञा के बिना कोई परिवर्तन नहीं किया जायेगा;
- (3) खादी और ग्रामोद्योग कर्मचारी (पेंशन) विनियम, 1984 के अधीन संदेय उपदान की किसी स्तर की किसी सिविल, राजस्व या दायित्व न्यायालय की किसी डिक्री या आदेश के निष्पादन में कुर्की नहीं की जायेगी।

[संख्या एस-70014/2/85-एम एस-4]

ए० के० भट्टारार्थ, अवर सचिव

New Delhi the 29th July, 1985

S.O. 3836.—Whereas the Khadi and Village Industries Commission, a body established under an Act of Parliament, has applied for exemption under section 5 of the Payment of Gratuity Act, 1972 (39 of 1972) (hereinafter referred to as the said Act) in respect of its regular employees who opt for pension and death-cum-retirement gratuity under the Khadi and Village Industries Commission Employees (Pension) Regulations, 1984.

And whereas in the opinion of the Central Government, the gratuity benefits payable to the regular em-

ployees of the Khadi and Village Industries Commission who opt for pension and death-cum-retirement gratuity under the Khadi and Village Industries Commission Employees (Pension) Regulations, 1984 are not less favourable than the benefits conferred on the such employees under the said Act;

Now, therefore, in exercise of the powers conferred by section 5 of the said Act, the Central Government hereby exempts the regular employees of Khadi and Village Industries, Bombay who opt for pension and death-cum-retirement gratuity under Khadi and Village Industries Commission Employees (Pension) Regulations, 1984 from the operation of the provisions of the said Act for a period of three years commencing from the date of publication of this notification in the Official Gazette, subject to the following conditions, namely:

- (1) If any dispute arises with regard to the implementation of the Khadi and Village Industries Commission Employees (Pension) Regulations, 1984, the Controlling Authority and Appellate Authority under the said Act shall have the power to intervene and determine it in accordance with the provisions of the said Act.
- (2) No change in the Khadi and Village Industries Commission Employees (Pension) Regulations, 1984 shall be made without prior permission in writing of the Central Government.
- (3) No amount of gratuity payable under the Khadi and Village Industries Commission Employees (Pension) Regulations, 1984 shall be liable to attachment in execution of any decree or order of any civil, revenue or criminal court.

[No. S-70014/2/85-SS-IV]

A. K. BHATTARAI, Under Secy.

नई दिल्ली, 29 जुलाई, 1985

का० अ. 3837—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय खाद्य निगम, अहमदाबाद के प्रबंधन में सम्बद्ध नियोजकों और उनके कर्मचारियों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण अहमदाबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 18 जुलाई, 1985 को प्राप्त हुआ था।

New Delhi, the 29th July, 1985

S.O. 3837.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Chandigarh, as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Food Corporation of India, Chandigarh and their workmen, which was received by the Central Government on the 18th July, 1985.

ANNEXURE

BEFORE SHRI I. P. VASISHTH, PRESIDING
OFFICER, CENTRAL GOVERNMENT, INDUS-
TRIAL TRIBUNAL, CHANDIGARH

Case of I.D. 39/84

PARTIES :

Employers in relation to the Management of
Food Corporation of India, Punjab Region,
Chandigarh.

AND

Their Workmen.

APPEARANCES :

For the Employers : Shri Mangu Ram.

For the Workmen : Shri P. K. Singla.

Activity : Food Corporation of India State : Punjab

AWARD

Dated the, 11th July, 1985

The Central Government, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the Industrial Disputes Act 1947, hereinafter referred to as the said Act, per their Order No. L-42011(2)/83-D.IV(B)/D.V. dated the 29th of November, 1984 referred the following industrial dispute to this Tribunal for adjudication :—

1. "Whether the management of Food Corporation of India is justified in refusing payment of TA/DA to its casual watchmen sent on duty to distant places as is being paid to their regular watchmen? If not to what relief are the casual watchmen entitled to and from what date?"
2. Whether the management of Food Corporation of India is justified in refusing issue of uniforms to its watchmen? If not, to what relief are the casual watchmen entitled to and from what date?"

2. Brief facts of the case according to the petitioners are that they were working under the respondent Corporation for its Sangrur Depot for the last 9 to 10 years, though posted at different stations. It was averred that they were doing exactly the same job, both qualitywise as well as quantitywise, which was being done by their counterparts-employed on the cadre strength of the regular watchmen but the latter were being given higher wages in a time scale whereas they were paid a smaller amount and discriminated against on almost every count. To be precise, the petitioners alleged that even though they were often deputed at different places for official duty yet no T.A. or D.A. was being paid to them and similarly they were also deprived of the Livery facility both during the Summer as well as Winter seasons. They, therefore, raised a demand on the management for the appropriate relief but the latter was found unresponsive despite the intervention of the A.L.C(C) during the Conciliation proceedings and hence the Reference.

3. Contesting the proceedings on all counts the management denied that the casual watchmen were

ever sent on tour to out station places and explained that their very engagement was on contract basis with regard to the fluctuating nature of workload otherwise they were the volunteers of the Punjab Home Guard and hired by it, from time to time, on short-term basis at the daily wage rates as approved by the Deputy Commissioners of the concerned districts. It was added that as and when the workload decreased at any particular station, casual work force was disengaged from there and hired at the place of requirement. Similarly the petitioners' entitlement to any livery-benefits was also challenged because there was no provision for it in the F.C.I. Staff Regulation and Manual.

4. In support of their case the petitioners examined their General Secretary Shri P. K. Singla and filed a number of documents whose authenticity was not questioned by the opposite side whereas, in its discretion, the management preferred to contest the case on its legal niceties alone without feeling the necessity of projecting any evidence.

5. On a careful scrutiny of the entire available data and hearing the parties I am inclined to sustain the petitioners' cause because in the absence of any rebuttal evidence there is no good reason to doubt the veracity of their General Secretary Shri Singla's statement that they were often deputed to out station duty just like the regular but not paid any T.A. or D.A. In the very nature of things, the management's bare denial, without any supporting material, cannot be overplayed. On its behalf it was contended that as and when any increase was found in the workload at a particular station, it usually disengaged the surplus labour force from some other station and re-employed them at the place of requirement; it thus being a completely new assignment, did not entitle the concerned employees to any T.A. or D.A.

6. The submission deserves summary rejection for reasons more than one. It may be recorded without any reservation that primarily it was a question of fact as to when, where or how the fluctuations were noticed or measured by the Management and how the situations were handled by hiring and firing the Casual labour force. A judicial scrutiny was also called for to examine the legality of such practice lest there should be any breach of the mandatory provisions of Chapter VA, with particular reference to Section 25F of the Act. And it hardly requires any repetition that for no justifiable reason the Management failed to clarify the position by leading any evidence. It rather evaded the issue by taking shelter under the plea of legal niceties alone.

7. Otherwise also on the very face of it, it seems to be an unfair labour practice because when a certain strength of employees is engaged under the overall charge of the same very Employer, the device of terminating the services of some of them from one sub-depot and then re-employing them at the other sub-depot shows nothing but a crude attempt at avoiding the "shifting/transfer" liability. Entry No. 5(B), read with No. 10 under the Fifth Schedule attached to the Act is comprehensive enough to take note of such tactics.

8. Accordingly I direct the management to forthwith grant the facility of T.A. and D.A. to its Casual watchmen as and when they are deputed on out station duties. The quantum would of course, be regulated on the pattern applicable to the Regulars.

9. The second part of the reference relates to the petitioners' demand for issuance of Uniforms. On behalf of the management it was argued that because their employment itself was on irregular basis, therefore, they could not be treated at par with their regular counterparts who, too, were required to fulfil certain conditions to qualify for the Uniforms e.g. a particular length of continuous service.

10. The submission failed to carry conviction with me. The pertinent point is that it could hold valid only in those situations where casual work force was hired and fired every now and then. But in the case in hand from the pleadings itself it is abundantly clear that the petitioners were consistently working for the respondent Corporation for the last 4 to 5 years, if not more. It is besides the point that in his affidavit Ex. W1 their General Secretary Shri Singla averred

that they were working as such for the last 6 to 7 years and this statement was not challenged despite his availability in the witness box to face the acid test of cross-examination. Against such backdrop, one can not possibly resist the inference that the management was indulging in unfair labour practice by keeping the petitioners' fate in suspense as Casuals with the sole object of depriving them of the perks and privileges normally made available to the permanent workmen.

11. Since no other point was raised before me, therefore on sustaining the petitioners' cause on this count also, I direct the management to treat them at par with its regular employees of their category, with immediate effect, for the grant of Uniforms.

12. Award returned accordingly.

Chandigarh.

11-7-1985

I. P. VASISHTH, Presiding Officer

[No. L-42011/2/83-D.IV(B)D.V.]

R. K. GUPTA, Desk Officer